



## Ohio Township Association

6500 Taylor Road, Suite A  
Blacklick, Ohio 43004  
(614) 863-0045 • FAX (614) 863-9751  
www.ohiotownships.org  
**Michael H. Cochran, Executive Director**  
**Heidi M. Fought, Director of Governmental Affairs**

## Legislative Update

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MONDAY, JANUARY 26 2009

### **STRICKLAND'S PAST STATE OF THE STATE ADDRESSES SIGNALLED MAJOR POLICY SHIFTS, SAW RELATIVELY FEW SETBACKS**

Gov. Ted Strickland came out firing two years ago, when in delivering the first State of the State Address by a Democrat since 1991 he called for the elimination of the GOP-championed school voucher program. Although not unexpectedly considering Republicans controlled both legislative chambers at the time, it would prove to be among relatively few misses Mr. Strickland has experienced in laying out his policy goals during State of the State speeches in 2007 and 2008. For the most part, Gov. Strickland's big ideas have been embraced. He'll get the chance to continue that streak on Wednesday at noon, with his third address to the full General Assembly.

Among the governor's more notable State of the State proposals was the plan to sell off a few decades of Ohio's future tobacco settlement payments for some \$5 billion. He blunted any potentially significant opposition to the 2007 plan by tying the proceeds directly to the existing Ohio School Facilities Commission and indirectly to a concurrent plan to parlay the bonded debt savings into reduced property taxes through a broadened Homestead Exemption program.

Gov. Strickland's other big-ticket proposal, his 2008 "Building Ohio Jobs" stimulus package, has met with mixed success for a variety of reasons but was enacted, for the most part, intact. Originally a \$1.7 billion bond package, the GOP-led legislature replaced much of the proposed debt with other funding and reduced the overall plan to \$1.57 billion while maintaining most of the targeted initiatives such as infrastructure and bioscience projects.

Much of the money, however, remains unspent; the bio funds remain tied up in a court battle over a former anti-tobacco foundation that was tapped for \$230 million, and disagreements linger between Gov. Strickland and Sen. President Bill Harris (R-Ashland) over the use of \$200 million from the state's rainy day account. The administration has said it is looking for alternative finding source for the infrastructure money while pledging to follow through on other planned GRF spending under the package.

Mr. Strickland has also found success with numerous other State of the State initiatives. His proposal to freeze college tuition rates for one year in exchange for a "compact" with higher education institutions was expanded by the legislature to a two-year freeze that came with additional state money for colleges and universities.

Gov. Strickland also got lawmakers to buy into his power shift at the Board of Regents, which was reduced to an advisory role with the elevation of the chancellor's position to cabinet-level authority. His choice for the slot, former Sen. Eric Fingerhut, was also endorsed by the General Assembly leadership as well as the Regents. Spokesman Keith Dailey said one of the governor's biggest disappointments from the 2007 speech was a result of federal government foot-dragging. By the time the plan to expand the State Children's Health Insurance Program did get federal approval due to inaction by regulators, the administration was already in a tight budget squeeze and opted to hold off on the expansion.

Among other policies that were followed through on after his 2007 speech was an expansion of Medicaid eligibility, including more coverage access for pregnant women and the disabled, passed as part of the budget bill (HB 119) and a greater focus on energy programs. Mr. Strickland teamed with the 127<sup>th</sup> General Assembly on a broad plan for regulating the state's electric utilities and planning for future energy needs (SB 221).

Aside from the stimulus plan, Gov. Strickland's 2008 speech contained fewer bombshells of note and in some ways laid the groundwork for his upcoming speech, in which he's expected to offer more concrete proposals to change K-12 funding and policies. Last year, he outlined six principles for moving forward in that regard.

The governor's bid to usurp more control from the State Board of Education failed that year when the legislature declined to go along with his request to create the cabinet position of Director of Department of Education. While the plan did come up short, then-State Superintendent Susan Tave Zelman would eventually resign and be replaced by Deborah Delisle. Mr. Dailey said

the governor is pleased with the board's recent appointment of Ms. Delisle and has dropped his plan for creating a new leadership structure at ODE.

### **AVERAGE OHIO HOME SALE PRICE DROPPED 8.6%, REALTORS SAY; STATE SEES LESS CHANGE IN RECENT PROPERTY VALUES UPDATE**

The average home sale price in Ohio fell 8.6% in 2008 over the previous year, according to year-end data the Ohio Association of Realtors released Monday. Meanwhile, the state saw little overall change in real estate property values during the latest round of three-year appraisals and updates conducted at the county level. The average sales price for new and existing homes in Ohio was \$136,692 last year, down from \$149,558 in 2007, according to OAR. Total dollar volume in 2008 was \$15.6 billion, a 20.6% decline from \$19.6 billion the previous year.

The number of housing units sold in Ohio during 2008 also decreased 13.1%, from 130,982 in 2007 to 113,849. Despite the sobering numbers, OAR remains "bullish on the marketplace," OAR President Jonathan Hall said in a statement.

"Interest rates are extremely favorable, prices are remaining stable, sellers have become increasingly realistic in their expectations and consumers understand that long-term, owning a home is a tremendous investment," he said.

"We're optimistic that many would-be buyers will make the decision to get off the fence and into a home in 2009 in order to take advantage of all the favorable conditions that exist," he added.

Despite falling numbers the realtors reported, only a handful of the 41 counties that completed their six-year appraisal or a triennial update of property values last year saw declines, according to the Department of Taxation. Montgomery, Summit and Delaware counties saw decreases of 1.34%, 1% and 0.92% respectively. The remaining counties were roughly flat or saw relatively modest increases.

"I don't know that we're aware of a time that there's been so little change in a three-year period in so many counties," ODT spokesman John Kohlstrand said.

By comparison, property values in the same group of counties rose 15.1% during the 2005 reappraisal, according to the agency. The 2008 figures compare housing prices to the last county update completed in January 2005, when home prices will still generally rising, Mr. Kohlstrand noted.

"The market wasn't falling for three years. There was more growth during those previous three years than there was a slide at the end of that period," he said. "It would be fair to reason that the downward pressure on the market might be more pronounced in some of these updates and appraisals that are going to be conducted this year," he added.

Flat or declining property values will likely impact the balance of funding between local school districts and the state starting in FY 2010, he said. Generally, the state will have to assume a greater amount of the per-pupil foundation amount.

TUESDAY, JANUARY 27 2009

### **POTENTIAL DONNYBROOK PERCOLATING OVER CONTROL OF FEDERAL STIMULUS MONEY TO OHIO**

Republicans in the legislature are fuming over a Strickland Administration plan to bypass the General Assembly in divvying up a good portion of expected federal stimulus money. Gov. Ted Strickland's administration has informed the legislature that it plans to disburse the funds via the Controlling Board, which is controlled by Democrats, versus in bill form, which would bring into play the whims of the Republican-controlled Senate and Democrat-run House.

Proposed legislation to spend the money could also trigger extensive debate through the committee process, as various interest groups stake their claims for a slice of the funds. At issue is an estimated \$2.4 billion in infrastructure and other capital money the state could receive under a federal stimulus package currently under debate in Congress. The most recent estimates also project an additional \$5 billion in Medicaid and other bailout funds could be headed Ohio's way via the \$800 billion-plus federal package that's anticipated to include \$200 billion for states. The administration argues that the Controlling Board route would help speed delivery of the funds, and help create jobs more quickly.

Senate President Bill Harris (R-Ashland) said in an interview Tuesday that in his initial discussions with Gov. Strickland's newly appointed "Infrastructure Czar," Ronald Richard, it was indicated that legislation was the best route for developing a spending plan for any new road and bridge project money that flows from Washington. The Senate has since been informed

otherwise, and there are increasing concerns that the Controlling Board spending path could extend to a larger chunk of federal stimulus money.

"I would encourage the governor to follow the process and run those stimulus dollars through the legislature where it's transparent and gets equal consideration and visibility and everyone has the opportunity to be responsible for the actions they've taken and the vote they make," Sen. Harris said.

Senate Finance Chairman John Carey (R-Wellston) said, "We're concerned about it as a Senate and I'm concerned about it as a legislator. It's something that will be talked about further. I think it's something that should be done through the legislature and I think we can move it relatively quickly."

Strickland spokeswoman Amanda Wurst said the administration's aim is to get the infrastructure money into Ohio's economy as quickly as possible with a minimum of bureaucratic red tape. She said the Controlling Board proposal does not include the larger anticipated pot of state "fiscal relief" funds.

"An important priority is going to be that Ohio does not miss out on any opportunities," she said. "We want to make sure we move forward expeditiously when these resources are sent our way."

The federal government already provides resources to Ohio and local communities through existing programs, and the administration plans to deploy the infrastructure money through those "existing funding channels," Ms. Wurst said.

Keary McCarthy, spokesman for House Speaker Armond Budish (D-Beachwood), also said the state should act quickly in dispersing the funds.

"The process for appropriating federal stimulus money is still fluid, but our priority should be to get this money into the Ohio economy as quickly as possible," he said. "It's also important to recognize that we are competing with other states for these resources and the sooner we can put federal dollars to use, the better positioned Ohio will be."

House Minority Leader Bill Batchelder (R-Medina) said Republicans would oppose attempts to seek appropriation authority for spending federal stimulus money through the Controlling Board instead of the General Assembly.

Rep. Batchelder acknowledged "a theory" that the executive branch could pursue release of funds through the board, made up of six legislators and a representative of Gov. Strickland's Office of Budget and Management. However, the former state appeals court judge said in an interview that basic provisions of the Ohio Constitution do not envision a Controlling Board.

"My sense would be that that would be an unconstitutional act. But there's no decision, just the plain language of the constitution ... that would require the money to be appropriated, in my opinion. Absolutely," Mr. Batchelder said.

Democrats hold a 4-3 majority on the Controlling Board.

Rep. Batchelder said House Republicans would be unanimous in objecting to board approval of potentially billions of dollars in anticipated federal aid for public works, education and other purposes.

"I would anticipate every one of them, every one of them I would anticipate at this point," he said.

### **REPUBLICANS PROPOSE EXECUTIVE BRANCH REORGANIZATION TO SAVE \$1 BILLION PER YEAR**

Republicans in the House and Senate on Tuesday proposed a reorganization of gubernatorial executive offices they characterized as "too large and too bloated," estimating such a move could save \$1 billion a year and eliminate 11,448 jobs.

House Minority Leader Bill Batchelder (R-Medina) and Sen. Timothy Grendell (R-Chesterland) said companion bills would soon be introduced in both chambers. Joining them at a news conference were Rep. John Adams (R-Sidney) and former legislator, auditor, and attorney general Jim Petro.

An earlier version of the separate restructuring bill (SB78, 126<sup>th</sup> General Assembly) was introduced in February 2005, reflecting a proposal from Mr. Petro. The measure died in committee. Backers of the current proposal hope support could grow in view of the state's current economic climate.

"If not now, when?" Sen. Grendell said. "If this isn't the time to do it, I don't know when we're going to get the opportunity to do it. Because this is the worst economic situation we've been in, in a long time. There may be many solutions. This is to start the discussion and we hope that the governor will join us in this discussion."

Rep. Batchelder said consolidation and reorganization of state government is a challenge that has faced the state for decades.

"Basically our state government today is established - and as you know, I'm not opposed to doing things historically - has been established under the Constitution of 1912," he said. "That was a good effort, but some things have changed since 1912. Not so much in state government, except for growth, and excessive employment, and those kinds of things. And those are not helpful in terms of providing service to the citizens of this state."

The proposal would consolidate 24 existing Cabinet-level departments into 10 agencies under the governor's direct control. The restructured departments would deal with education, public safety, public health, transportation and infrastructure, development, finance and operations, human resource development, community and institutional rehabilitation, business, and resource protection.

Projected job losses would occur through attrition. Rep. Adams said Ohio is trapped in the past. Successful private firms, he said, reorganize every five to ten years.

"There are over 60,000 state employees in Ohio, 47,000-plus of those are directly under the governor's office," he said. "A private sector company would not wait every 50 years to evaluate its' structure. The business model we currently operate under is simply ineffective."

Sen. Grendell said the goal was to eliminate duplication in legal, administrative, and public relations services among departments and scores of boards and commissions - without reducing essential government services.

"The state of Ohio has 24 departments. I believe if you look at the federal government, they're running all 50 states on 17 departments. So the answer is to consolidate," he said.

Mr. Petro estimated about two-thirds of the state's 300 boards, commissions and related organizations have their own staff. The proposal envisions a centralized staff.

"Part of this budget process could involve that comprehensive discussion that says, 'We're going to try to weed out areas of duplication.' And let me tell you, having been eight years as auditor, there's a lot of (it) in government and it could result in massive savings," he said.

Rep. Batchelder and others conceded such an administrative overall would not be easily accomplished.

"There are a lot of ways to go about this. Obviously we would want to be working with the governor to that end, but I think that leadership from the governor in this area will provide the kind of draft that's necessary in order to move it," he said.

Rep. Batchelder said he had not yet talked with Gov. Ted Strickland about the legislation, but had mentioned it to House Speaker Armond Budish (D-Beachwood).

### **HEALTH OFFICIALS REPORT ONE NEW SALMONELLA CASE, RETRACT PREVIOUSLY ANNOUNCED DEATHS**

Ohio health officials on Tuesday added one new victim to the total tally of salmonella cases in the state, but removed three of the four previously reported deaths associated with the bacterial infection outbreak.

Department of Health Director Alvin Jackson said the agency was working with the federal Centers for Disease Control, Food & Drug Administration, and health departments in other states and local areas to track down the origin of the salmonella outbreak. Ohio now has 68 reported cases of salmonella infection, the highest level in the country. The ages of infected individuals ranges from two months to 89 years and the cases date from Oct. 10 to Jan. 8.

Preliminary analysis indicate an association with prepackaged peanut butter crackers distributed by the Keebler and Austin brands, Dr. Jackson said.

"We really want to emphasize at this point that there is only one death in Ohio that has been associated with the outbreak. In the other three deaths that have been reported, it is not a contributing factor," he said.

Officials previously reported four fatalities associated with salmonella. As of Tuesday, there have been a total of 40 recall notices of food products supplied by Peanut Corporation of America, he said.

"I have no doubt that raising public awareness will help reduce the risk of salmonella infection to Ohioans," he said, noting information about the outbreak is posted on the ODH website. "If you have peanut butter on your shelf, verify it. If you can't verify it, don't eat it," he said.

Northeast Ohio has reported the highest number of salmonella cases, with Cuyahoga, Stark and Summit totaling 17, 7 and 5 respectively.

WEDNESDAY, JANUARY 28 2009

### **STRICKLAND URGES SCHOOL FUNDING REWRITE, SOUNDS BUDGET WARNINGS IN STATE OF THE STATE ADDRESS**

Ohio would shift to a new "evidence-based" system of financing its public schools and give local districts a new levy option that grows with property values under a long-anticipated plan unveiled Wednesday by Gov. Ted Strickland. Delivering his third State of the State address, Mr. Strickland said Ohio must make significant changes in its funding system to help schools educate students for a changing economy.

In outlining a plan that seeks to eliminate so-called "phantom revenue" and create new school district accountability standards, the governor offered a handful of other education policy changes that lengthen the academic year, require all-day kindergarten, improve teacher quality and provide dedicate state resources for instructional materials.

Mr. Strickland kicked off his address with a nod to the perseverance shown decades ago by planners of the Ohio State University's football stadium, who overcame doubts about its necessity as well as financial constraints. The lesson to be taken from that project, he said: "Never, never underestimate the people of Ohio."

The governor delivered his speech near the tail end of a strong winter storm that battered most of the state with snow and ice over two days. His address, while touching on some of his administration's accomplishments over the past year, also alluded to the beating that the bleak economic climate has delivered to Ohio and the rest of the nation.

"The time has come for us to stare truth in the face," he said in ticking off a series of historically bad statistics, including Ohio's loss of more than 100,000 jobs last year, a doubling in home foreclosures, and a plummeting stock market. "Through it all, the state of our state is steadfast," Gov. Strickland said.

The snow swirling outside the Statehouse didn't appear to overly impact attendance, as the House floor was crammed with lawmakers from both chambers, agency directors, and Ohio Supreme Court justices. The judges were seated directly before the dais, with cabinet members surrounding them in a semicircle on both sides.

Seated conspicuously in the center next to Lt. Gov. Lee Fisher was the state's new Superintendent of Public Instruction Deborah Delisle, who is sure to figure prominently in the looming debate over the governor's education plan.

Mr. Strickland said during his speech, which lasted more than an hour, that despite the drastic financial conditions facing the state, "Now it is our duty, together, to make something of this moment."

The governor said his budget plan - to be unveiled on Monday - will be balanced with the assistance of \$3.4 billion in state fiscal aide that's expected to be part of a large economic stimulus bill moving quickly through Congress.

Republican lawmakers, who later questioned the use of the federal funds to balance the upcoming state budget, started a standing ovation that soon spread around the chamber when the governor said his budget would not raise taxes on Ohioans. The GOP's apparent enthusiasm, however, turned tepid when the governor announced his budget would continue the expanded Homestead Exemption that was funded in part by last biennium's securitization of the state's tobacco settlement payments. House Minority Leader Bill Batchelder (R-Medina) has lately questioned the wisdom of that move.

While not raising taxes, the biennium budget plan to be unveiled on Monday will raise revenues through agency fee, fine and penalty hikes, Gov. Strickland said. Still, Mr. Strickland said the state will have to make program cuts ranging from 10%-20%, and said state agencies, employees and others will have to share in the burden of those reductions.

"I must ask all Ohioans to accept the sacrifices that these times demand," he said. "In order to protect the priorities most important to Ohio's future, we have no choice but to reduce a significant number of programs and services. We must ask state of Ohio employees to endure a financial sacrifice. This is a difficult day within a difficult year. But not for a moment do I doubt that we will emerge strengthened by adversity," he added. "Our revenues may have retreated, but we will not."

Mr. Strickland also noted that his budget plan will call for two-year tuition caps at community colleges and regional campuses and will freeze tuition at main campuses in fiscal year 2010. In fiscal year 2011, main campuses will be asked to limit tuition increases to 3.5% he said.

Seated behind the governor, Speaker Armond Budish (D-Beachwood) was the first to initiate a standing ovation when Gov. Strickland announced his budget would fund the expansion of State Children's Health Insurance Program up to 300% of the federal poverty level, as enacted by the last biennial spending bill (HB119, 127<sup>th</sup> General Assembly) but delayed by federal inaction and sinking state revenues.

Among other things, Mr. Strickland said his budget plan would also:

- Unite early childhood development programs under the Ohio Department of Education.
- Expand health care access to an additional 110,000 adults.
- Encourage elder care in home-based settings rather than nursing homes.
- Look to restore passenger rail service between Cincinnati, Columbus and Cleveland.
- Renew and expand existing job-related tax credits and create film tax and a new markets tax credits.

Mr. Strickland also said he will introduce a second job stimulus plan in the coming months. The proposal will expand on Ohio's existing Third Frontier program, he said.

### **VARIED REACTIONS: DEMOCRATS LAUD STATE OF STATE ADDRESS; REPUBLICANS WARN AGAINST 'ONE-TIME' MONEY IN BUDGET**

Speaker Armond Budish and other Democrats lauded Gov. Ted Strickland's "head-on" approach to the state's financial problems and declared his school-funding plan, as outlined Wednesday in the State of the State address, to be "bold and innovative."

State Auditor Mary Taylor joined fellow Republicans including House Minority Leader Bill Batchelder (R-Medina) in questioning the wisdom of the governor's plan to use billions in "one-time" federal aid to states in balancing the upcoming two-year Ohio operating budget.

So went a series of post-speech reactions that fell fairly predictably along party lines and set the stage for five months of budget deliberations, which will ensue next week with presentations from the Office of Budget and Management and the first hearings of the House Finance & Appropriations Committee.

**Speaker Budish:** "We're facing financial problems of historic proportions. The Governor did not run from these terrible conditions, he didn't pretend that they don't exist - he confronted them head on and proposed a bold plan to rebuild Ohio and to put Ohioans back to work," the speaker said during a news conference held after the speech.

"I heard the Governor propose significant cuts to the size of government. I heard the Governor talk about a significant influx in money from the Obama administration," he added. "Despite the economic problems of the state and the need for cuts to government to balance the budget, I was very pleased to hear the Governor also talk about investments in Ohio's future, in two respects.

"First, the Governor talked about investments to create jobs through targeted tax credits, and I am pleased to hear that some of those I spoke about in my opening day talk have apparently made it into the Governor's agenda."

"And I am very pleased to hear the Governor proposing a bold and innovative re-working of Ohio's education system," Speaker Budish (D-Beachwood) said. "The Governor apparently is proposing a complete overhaul rather than simply tinkering around the edges. And the Governor is going beyond school funding, proposing historic changes to education generally."

**House Republicans:** Rep. Batchelder said in a follow-up news conference that his caucus was left wanting for details. "We're a little bit befuddled I think," he said, while finding major fault with at least one of the governor's plans: to use \$3.4 billion in federal bailout money to balance Ohio's FY 2010-2011 budget.

"That is a problem that we have faced previously with this administration," he said, referring to the use of tobacco settlement money to indirectly fund a homestead exemption expansion in the last budget.

"When you fund things with one-time incidences of income, it's a very long-term problem that you're entering into," Mr. Batchelder said.

While stressing that more information would be needed to fully assess the governor's school-funding plan, Republican lawmakers expressed early concerns about costs related to the proposals.

"It seems to me that if you double the kindergarten day that you're doubling the kindergarten budget, and I have no idea what that means financially," Rep. Batchelder said. "I think the phantom (revenue) thing could be a very large part of what any growth that's going to occur in the budget is."

Rep. Batchelder did comment favorably regarding the governor's statements on the teaching pipeline.

"It almost sounded like the governor was joining with a lot of us over the years who said the colleges of education need to be overhauled because they just don't deliver," he said.

Rep. Lou Blessing (R-Cincinnati) said the use of one-time funds in the budget is especially problematic when you're creating new programs at the same time.

"What's going to happen two years from now? We're going to be in a situation where we do all these new programs with one-time money, and at budget time two years from now we're going to be in a horrible position to cut those programs back," he said.

**Senate Republicans:** Standing in for an injured and absent Senate President Bill Harris, Sen. Tom Niehaus (R-New Richmond) said Mr. Strickland touched on several important issues, but didn't provide enough details to allow policymakers to thoroughly review the plans.

"That makes a good sound bite, but where's the substance," he asked. "I just at times found myself with more questions than answers."

Sen. Niehaus observed that the governor endorsed several programs created by past Republican-controlled legislatures, and said the caucus was particularly gratified by Mr. Strickland's commitment to balance the next budget without raising taxes. "That's certainly welcome news," he said.

Mr. Niehaus also said he has concerns with the proposed use of federal stimulus funds to supplement state resources for the budget. "We talk about federal dollars as if they're not tax dollars," he said.

Reliance on one-time federal money to support programs with ongoing expenses will create more difficult choices in future years, he said. "We can't go on a spending spree because we got a big check."

The lawmaker said he appreciated the governor's comments regarding charter schools, but raised concerns that Mr. Strickland singled out those schools operated by private, for-profit operators.

Sen. Kevin Coughlin (R-Cuyahoga Falls), who has announced plans to seek the governorship in 2010, issued a critique on Mr. Strickland's plans for budget balancing, Medicaid, higher education and K-12 funding. He declared the speech to be "long on promises and devoid of details, particularly on how his promises will be paid for and who will pay."

"Two years and three State of the State addresses into Governor Ted Strickland's term and Ohio shows no signs of turning around," he said. "The state is adrift and nothing in today's speech gave Ohioans reason to believe that will change anytime soon."

**Senate Democrats:** Senate Minority Leader Capri Cafaro (D-Hubbard) said in an interview, "It is incumbent upon us, as legislators, because the people of the state of Ohio are truly seeking solutions - we must put politics aside and really take a very close look at the policies that are being presented, as well as the actual details."

"While this is a very strong, big picture that Gov. Strickland has provided us in regards to education reform, health care progress, and economic development prospects, the devil is in the details," she said.

"I think we will see an honest and open dialogue amongst the members of the Senate and the House in a bipartisan manner to try to make sure that we actually do provide an operating budget that invests in Ohio's future."

Sen. Shirley Smith (D-Cleveland) welcomed Gov. Strickland's plans for a balanced budget and educational reforms, saying they would set the state up nicely in the future.

"We understand that our students need more of everything in order to learn and perform against international standards. They need more time in school, more teacher expertise, and more multidisciplinary activities," she said.

Sen. Smith also lauded the governor's support of the development of light passenger rail connecting Cleveland, Columbus, and Cincinnati. "The Ohio Hub is a transportation project that is one of my passions, and I have been focusing on it for some time," she said. "I am eager to work with the Governor to implement this program."

**Attorney General:** Richard Cordray said, "This governor is very aggressive about pursuing what he thinks is in the best interests of Ohio."

"It was interesting, and this has been true about every one of his state of the state address, that he is seeking big goals, big changes, big improvements for the future of this state and I really appreciate that about him. He has a lot of courage."

"We obviously now are primed about a really wide-ranging and important debate about the future of education in Ohio and it will be interesting to see how the legislature reacts to his proposals," Mr. Cordray added.

"But there was no big issue that he left untouched in this address and he obviously has a very ambitious agenda for the young people and the educational future of our state and it's going to be interesting to see that develop."

**Secretary of State:** Jennifer Brunner said the governor hit the mark in light of the challenges facing the state budget and K-12 system.

"These are sweeping changes but Ohio has traditionally been considered a progressive state and these types of reforms will help us return to being looked at by the nation as a state that is progressive, that is forward thinking, that is a state of leaders," she said.

"I'm sure people are looking at the changes being proposed with a lot of questions," Secretary Brunner said. "But what I know about the governor and his staff is that they are very good on policy and they thought through these issues and that if both sides will cooperate, we can move Ohio forward on this."

**State Auditor:** Mary Taylor said, "My overriding concern is that it appears the governor is pinning his hopes on balancing this budget with the one-time federal bailout money instead of making the tough decisions I believe need to be made to get Ohio back on the right track."

"We need to make the tough decisions today. They cannot continue to be put off until the future," she said. "What I mean by that is, we cannot continue to fund programs that don't work. And are we critically looking at those programs and eliminating them so that we can bring our budget back into structural balance."

"I believe the governor has used a lot of accounting gimmicks over the last several months and other one-time money to plug holes, but yet we're still not dealing with the overriding issue of balancing a budget that is structurally out of balance."

Ms. Taylor said her office would take some cuts in the next biennium. "We submitted a proposal that was a reduction and, absolutely, we are doing our part in our office to be more efficient and more effective with the appropriations that we receive," she said.

**State Treasurer:** Kevin Boyce said the governor "laid down the gauntlet on a number of issues and has demonstrated leadership on both the stimulus package and the education proposals."

"I think the proposals will allow us to begin to address the issues that many Ohioans are looking for us to address so I'm very excited about it."

Regarding the education proposals, Mr. Boyce said, "I love the element of using the ACT as both a benchmark measure instrument as well as a preparation tool for higher education.

"The status of the economy we're in now, higher education is the link in the long term in addressing some of those issues," he added. "I also like the creativity and innovation center that he is creating.

"This is a way that will allow Ohio to stand out amongst all the states and even internationally in terms of preparing our students for a sort of 21<sup>st</sup> Century global education."

**Ohio GOP:** A statement from the Ohio Republican Party noted Governor Strickland promised to turn around Ohio during the 2006 campaign and asked, following his third State of the State address, whether Ohio is better off today than it was two years ago. The statement wasted no time in answering its own question pointing out that "what Ohio now faces is the state's worst unemployment in over two decades, more mass layoffs, jobs and workers continuing to leave the state and declining home values."

THURSDAY, JANUARY 29 2009

**BUDGET DETAILS EMERGE AHEAD OF UNVEILING NEXT WEEK; FEDERAL STIMULUS ADVANCES**

While the devils won't emerge with the most details until next week, Gov. Ted Strickland's administration continued to provide additional clues Thursday as to the overall direction of the fiscal year 2010-2011 executive spending proposal.

The governor said during a Columbus media conference sponsored by The Associated Press that Department of Education spending, an area of intense anticipation and focus in Wednesday's State of the State Address, would grow by \$925 million over the coming biennium.

That growth, his administration further explained afterward, is based on final FY 2009 estimated spending, which takes into account three rounds of budget cuts that have been imposed as a result of shrinking state revenues. Using a baseline FY 2009 funding number of \$6.8 billion, which apparently does not include property tax relief, the K-12 spending levels would increase to \$1.1 billion in FY 2010 and \$7.4 billion in FY 2011, Strickland spokeswoman Amanda Wurst said. In percentage terms, the annual ODE increases would be 4.7% and 4%.

In dollar terms, the biennium increase for K-12 programs would be roughly the same as policymakers provided when enacting the current biennium budget plan (HB 119) compared to the last two-year budget (HB66, 126<sup>th</sup> General Assembly), according to Legislative Service Commission spreadsheets. The total would actually be less than the primary and secondary funding surge provided in the FY 2004-2005 budget.

The \$14.6 billion in general revenue funds spent on K-12 programs in the FY 2004-2005 budget (HB95, 125<sup>th</sup> General Assembly) - a total that includes property tax relief - was \$945 million higher than the prior biennium spending on ODE, according to LSC. Policymakers approved a \$330 million increase for the department in the following budget, and the original HB119 appropriations were \$885 million higher than K-12 outlay in the prior, FY 2006-2007, spending plan.

Gov. Strickland said his budget package would be balanced without tax hikes but would include \$3.4 billion in federal bailout money earmarked for states along with new revenue generated by fee, fine and other penalty increases.

Among the planned fee increases, the governor said Thursday, are higher "tipping fees" for waste disposal. Such fees have been used in the past to boost the budget of the Ohio Environmental Protection Agency. Gov. Strickland told reporters that Ohio's tipping rates are much lower than most surrounding states.

**Federal Aid Welcomed:** The \$800-plus billion federal stimulus package that includes the state fiscal relief has cleared the U.S. House and is expected to be on President Barack Obama's desk sometime next month.

Along with a "state fiscal stabilization" allotment of nearly \$2.4 billion, Ohio is currently slated to receive billions in other targeted aid for Medicaid, infrastructure, school facilities and a range of other initiatives over the next few years, according to Ohio's congressional delegation. Ohio's total cut has been estimated at more than \$7.5 billion.

A summary of Ohio's federal assistance funds released by U.S. Rep. Mary Jo Kilroy (D-Columbus) shows the state, among other earmarks, would get: \$2.8 billion over three years for Medicaid; \$1.3 billion for highways, bridges and transit capital projects; \$969 million for higher education Pell Grants; \$756 million over five years for food stamps; and \$327 million for the Clean Water State Revolving Fund.

Office of Budget and Management Director Pari Sabety said the governor only uses a portion of the federal money within the operating budget for various reasons. The administration has already informed the legislature, to the chagrin of Republicans, that it plans to process more than \$1 billion in infrastructure/capital project money through the Controlling Board versus separate legislation.

"When you take a look at the legislation there's some fairly stringent accountability and reporting requirements," she told reporters Wednesday in regard to the federal package. "We are using those resources in the stimulus bill that are specifically designated for state fiscal relief."

Ms. Sabety said the administration is also studying whether money for school facilities in the federal plan - the state could receive more than \$500 million for such projects under some estimates - could supplant tobacco securitization money currently queued up for spending by the Ohio School Facilities Commission.

"We are taking a look at that but that is not something that is currently part of the budget because of some of the rules and regulations around it," she said.

Gov. Strickland said some state agencies would be funded under his plan at 80-90% of current levels. Overall, his biennium proposal entails \$3.2 billion less in spending compared to 2009 planning levels, he said. Regarding his school-funding proposal, Mr. Strickland said fully implementing the "evidence-based" funding model would not rely on one-time revenues.

Republicans were especially critical of the administration's plans to use one-time federal funds in the budget, saying it would create a structural imbalance two years down the road.

"We are using some stimulus dollars in this two-year budget, but we think that our plan going forward will not be reliant upon such federal assistance," the governor said.

"We have received, through the stimulus package, some significant resources that were specifically designed to help the states during this particular fiscal crisis," Gov. Strickland said, adding that he initiated a request to President Barack Obama to include funding for education.

"Although there is school construction money in the stimulus package, I'm a little concerned that it seems to be available for the construction and renovation of Title I schools," he said, noting many of those schools in Ohio with high numbers of disadvantaged students have already been rebuilt.

The governor's representative in Washington is lobbying Congress to include more flexibility in federal school facilities funding, he added.

### **SECRETARY BRUNNER SUGGESTS ENDING SAME-DAY VOTER REGISTRATION, ABSENTEE VOTING PERIOD**

Secretary of State Jennifer Brunner voiced support Thursday for ending a five-day overlap period in election law that allowed individuals to register to vote and cast absentee ballots on the same day in last year's general election.

Ms. Brunner told reporters and editors at an Associated Press legislative preview that while the overlap was helpful for some voters, the controversy it sparked "created a lot of unnecessary anxiety on the part of the public."

She suggested viewing the concept of pre-Election Day voting in three ways: mail-in voting for absentee ballots, true absentee for military and overseas civilians, and in-person absentee voting. Ms. Brunner suggested leaving in place existing deadlines for the closing of voter registration and the opening of early mail-in absentee voting.

"But if you said early voting, which is in person, wouldn't begin to occur until 15 days before the election - but you permit the boards of election to have up to four locations for early voting to take place - then a person could go in during that overlap period and register," she said.

"If they requested an absentee ballot, they would fill out an application and that ballot would be mailed to them. If they felt that they wanted to vote in person, they would come back in 15 days before the election," Ms. Brunner said.

The shorter time frame for in-person absentee voting would give election boards enough time to determine that applicants were properly registered.

"To alleviate some of those administrative difficulties, some of the public anxiety that was generated - some of it was artificially generated, of course - we think that may be a workable solution," Ms. Brunner said.

She will continue to explore the possibility at an "election summit" scheduled for March 12-13 in Columbus. Other potential legislative initiatives deal with provisional ballots and funding of county election boards.

"We're at about 3% provisional voting, which is a lot higher than the national average. We think some of that's due to overly complicated voter ID laws. So we'll take a look at that," Secretary Brunner said.

She also wants to consider a change in funding of election administration in order that changes in federal and state law do not catch county commissioners and boards off guard. Ms. Brunner said her office funded about 82% of costs to county boards last year of complying with mandates from her office.

She continues to support replacing touch-screen voting machines with optical scan paper ballots, but acknowledged, because of financial and other reasons, that the changeover would be probably be gradual.

Earlier this month, Gov. Ted Strickland vetoed a Republican-backed measure to eliminate the registration/absentee voting overlap period that also included several other election law changes.

Joining Secretary Brunner at the AP session were Attorney General Richard Cordray, State Auditor Mary Taylor, and State Treasurer Kevin Boyce.

FRIDAY, JANUARY 30 2009

**BUDGET UNVEILING SET FOR MONDAY; RAINY DAY FUND TAPPED; DISPUTED \$200 MILLION UNDER ODOT PLAN**

Along with using \$3.4 billion in one-time federal assistance, Gov. Ted Strickland will also tap the state's \$1 billion Budget Stabilization Fund to balance the upcoming two-year spending plan, his office said Friday. Policymakers have already earmarked part of the money for infrastructure projects and Medicaid, but to date no money has actually been transferred from the rainy day account.

The largest earmark, \$200 million appropriated last year as part of the state's economic stimulus package, has been the center of a dispute between the governor and Senate President Bill Harris (R-Ashland). The legislative leader has repeatedly called for the use of the money to no avail, while Gov. Strickland, who vetoed a mandated transfer date for the funds, has promised to look for alternative sources.

The administration would not say Friday if Mr. Strickland planned to steer infrastructure money from the federal stimulus package into the Ohio Public Works initiative. However, Strickland spokeswoman Amanda Wurst said of the \$200 million, "The governor will present a solution to that as part of his ODOT budget."

The administration plans its first full presentation of the executive budget proposal, formerly referred to as the "Blue Book," on Monday during a news conference and subsequent briefings in Columbus.

Speaker Armond Budish (D-Beachwood) has said the House Finance & Appropriations Committee will begin hearings on the measure next week. Committee assignments are expected earlier in the week.

Two years ago, the actual budget legislation was introduced the week following the initial budget news conference conducted by Office of Budget and Management Director Pari Sabety.

### **BUDISH, HARRIS URGE SENATORS TO EMPHASIZE AMERICAN WORK IN FEDERAL STIMULUS PLAN**

The leaders of the Ohio House and Senate asked federal officials Friday to push for a guarantee that construction work performed under a pending stimulus plan be performed by American companies. Speaker Armond Budish (D-Beachwood) and Senate President Bill Harris (R-Ashland) agreed it would be best for the state and nation if domestic firms were hired to do the work.

"We want to ensure that current federal and state Buy American and Domestic Content laws, requiring publicly-funded infrastructure projects to utilize suppliers operating with the United States, will be upheld and enforced," the leaders wrote to Ohio's U.S. senators.

The lawmakers said the emphasis on American work comes "at a time when we are most in need, spurs the creation of significant new job opportunities and economic growth, and helps revitalize and advance our critically important manufacturing industry".

The document also asks Congress to discourage new outsourcing to the detriment of U.S. suppliers. The letter is also being sent to President Barack Obama and members of the state's U.S. House delegation.

MONDAY, FEBRUARY 2 2009

### **STRICKLAND ADMINISTRATION DEFENDS GROWTH IN BUDGET, SAYS EDUCATION PLAN 'SUSTAINABLE'**

Ohio's two-year general revenue fund budget would grow at about the same pace as the current version thanks to a federal bailout and despite plummeting tax revenue resulting from the stifled economy and tax system changes dating to 2005.

Office of Budget and Management Director Pari Sabety said in unveiling Gov. Ted Strickland's "Blue Book" executive budget proposal for fiscal years 2010-2011 that GRF spending would increase by 4.4% over the current biennium. The plan, which includes the governor's phased-in approach to a K-12 education overhaul, calls for \$26 billion in GRF spending the first year and \$28.6 billion the second.

The all-funds numbers, reflective of the heavy use of federal money in the plan, show an even larger biennium increase of 11.8%. While the current budget (HB 119) originally appropriated about \$107.3 billion in all funds, Mr. Strickland's plan for the biennium starting July 1 would entail \$120 billion in spending from state, federal and other sources.

Ms. Sabety said the increases were justifiable given the bleak economy and its impact on Ohioans. "State government must be growing now" because of those conditions, she said at the Columbus news conference.

"It is exactly this time that state government needs to be ready for health insurance for the uninsured, with ongoing child welfare supports, with long-term care for our elderly, with all of the safety net that's required so we are not looking at the kind of devastation in our communities that we would otherwise be facing in the midst of an economic recession the like of which we haven't seen since the Great Depression."

**One-Time Boosts:** Facing a tax revenue shortfall in the billions, the Strickland administration deployed some \$3.4 billion from the well-timed federal stimulus package and roughly another \$1.5 billion in "one cash transfers" that include draining the state's rainy day Budget Stabilization Fund.

Other nonrecurring revenue sources include: \$285 million in unclaimed funds; a \$200 million "loan" from idled Ohio School Facilities Commission money; and \$30 million from the rotary fund for occupational licensing and regulations.

Ms. Sabety said the \$200 million in OSFC funds is available because the state is first expending tobacco securitization money realized in the last budget to rebuild and update K-12 buildings across the state. "This will result in no slowdown of the current school construction pace," she said. The loan is to be repaid to OSFC sometime after 2011.

Similarly, Ms. Sabety said the governor's proposal anticipates spending a lot of federal stimulus money in the short term because of some "use it or lose it" requirements and other attached bureaucratic strings. "The use it or lose it provisions will require flexible, expedient processes for filing grant applications," she said.

All told, federal stimulus funds would provide 5.5%, or about \$3.1 billion, of the estimated \$56.2 billion in GRF revenues for the biennium, according to OBM.

Compared to FY 2009 estimated post-cut GRF spending levels, OBM said 20 agencies will get funding increases mostly due to the one-time federal money, six mostly legislative and judicial agencies are flat-funded, 33 would see lower GRF allotments and six are removed completely from general revenue funding.

**Fee Hikes:** Ms. Sabety said the governor has proposed increasing 120 fees to generate an additional \$236 million over two years.

The Ohio Department of Natural Resources and the Ohio EPA would both benefit from proposed increases in tipping fees for municipal solid waste and construction and demolition debris. OEPA would dedicate increased revenues to support 15 programs, including air pollution control. DNR would forward that new money to support soil and water conservation districts. OEPA itself is also asking for an increase of \$2.30 for the fee on the sale of every new tire to support vehicle emissions testing. The revenues from the fee would pay for an extension of the program through June 30, 2011.

DNR is also looking to create a new "energy resource extraction fee" that would fund regulatory programs governing the coal, oil and natural gas industries in the state.

General Revenue and State Special Revenue fund losses at the Ohio Department of Health would be offset by a handful of fee increases, including increased charges tied to license fees for marinas, campgrounds and agricultural labor camps; application/inspection fees for nursing homes; application fees for hospices; nurse aide training application fees; vital records fees; and pool and private water supply plan reviews, licenses, and inspections.

The budget calls for a new fee for hospice inspections and a 20% increase in fees tied to X-ray equipment and radioactive materials license and inspections. Vital records fees would increase by \$5, with \$4 of the increase staying with the department and \$1 going to local health departments.

The Department of Job & Family Services would gain revenues through fees on hospitals and intermediate care facilities for the mentally retarded and an increased assessment on fees to nursing facilities

The Public Defender Commission would generate fee-based revenue through a "package" of hikes, OBM said. Those increases would come through higher court costs, certain license reinstatement penalties and the financial responsibility reinstatement fee. The commission would also derive funds through a surcharge on surety and appearance bonds.

Additionally, the increases include a new hospital "franchise fee" and other hikes on franchise fees that Medicaid service providers pay to draw down federal matching money. Those changes are expected to result in an additional \$892 million in revenue over the biennium.

Another key change in the health care arena is a shift in the managed care tax to the sales and use tax, an alteration that is expected to generate another \$417 million.

### **BUDGET WOULD WIPE OUT EARMARKS, OVERHAUL EDUCATION, REVISE POLICY ON CORRECTIONS, HEALTH CARE, DEVELOPMENT**

Far-reaching changes to education are the centerpiece of the executive budget Gov. Ted Strickland released Monday, but the spending plan also includes a number of policy shifts that reflect gubernatorial priorities. Among one of the more notable changes in the \$54.6 billion biennium budget proposal is the elimination of all earmarks.

David Ellis, assistant director of the Office of Budget and Management, said current budgetary circumstances made eliminating earmarks from the budget necessary. "In a constrained budget, we wanted to eliminate them so our remaining resources could stay focused toward core programs," he said in an interview.

More information as to the total number and value of earmarks eliminated in the proposed spending plan was not available by deadline.

**Development:** The executive budget proposes funding several new programs that are part of the Department of Development's Strategic Plan:

- Ohio Hubs of Innovation and Opportunity.

- Ohio Means Home.
- Ohio Green Places.
- Ohio Available Skills Alert Posting.
- Ohio Ambassador Initiative.
- Check Ohio First.
- Enterprise Appalachia.

**BUDGET SEES STABLE TRANSPORTATION SPENDING; DRIVERS FACE \$106 MILLION IN HIGHER FEES, SEAT BELT NON-USE AS PRIMARY OFFENSE**

Fueled partly with \$106 million in higher motor vehicle fees, Gov. Ted Strickland proposed a \$7.5 billion biennial transportation budget Monday that overall is about the same amount of money now being spent. The proposal for fiscal year 2010, which begins July 1, includes \$3.98 billion for the Ohio Department of Transportation and the Ohio Department of Public Safety. That would reflect a 4% increase over current spending.

For FY 2011, the overall transportation budget is \$3.58 billion, a 10% decrease from the 2010 level. Most of the money is for ODOT: \$3.2 billion in 2010, an increase of 4.9%, and \$2.8 billion the following year, a decrease of 12.6%.

Public Safety's budget is \$724.4 million for 2010, a decrease of 0.1%, and \$728.8 million in 2011, an increase of 0.6 percent. If the General Assembly agrees, motorists would have to pay an additional \$5.75 for passenger car registrations to offset a projected revenue shortfall for the State Highway Patrol, a division within public safety.

The governor incorporated in his spending plan those and related motor vehicle fee increases that a study committee recommended last year. The budget also sets initial construction of a Cleveland-Columbus-Cincinnati rail passenger line as a priority. It would make failure to use car seat belts a primary offense - letting police stop and ticket drivers who have committed no other traffic violation. Attempts to elevate seat belts to primary offense status have failed in past legislative sessions.

However, Pari Sabety, director of the Office of Budget and Management, said such a change would generate an additional, one-time boost of \$26.7 million in federal funding.

The proposal also would:

- Advance development of an intercity high-speed passenger rail system.
- Expand the State Infrastructure Bank to fund new highway, transit, and rail projects.
- Create "innovative financing tools" such as public partnerships and imposition of tolls for certain new construction projects. Ms. Sabety said the "permissive" tolling authority for ODOT would apply to "new capacity construction" and allow the state to leverage private investments.

At the same time, supporting documents show the Ohio Rail Development Commission would experience a 16% decline in state general revenue funds in 2010; a 19.5% drop in GRF for airport improvements; and a 23.5% drop in federal public transportation funds.

The budget calls for the state to borrow \$194 million through bond sales to finance highway construction in 2010, a 94% increase from the current estimated level of \$100 million. Another \$163 million would be borrowed the following year.

ODOT will sell bonds to raise an extra \$200 million for public works projects initially authorized through a previously enacted economic stimulus package. Senate President Bill Harris (R-Ashland) had pressed for use of \$200 million from the state's rainy day account for such work.

Ms. Sabety said ODOT could instead borrow the money under its "available capacity" for debt. The bonds would be paid off with money realized by eliminating a credit to gasoline dealers for fuel lost through evaporation.

Unlike the executive budget for the rest of state government, the transportation measure does not take into consideration the state's potential share of federal stimulus money for highway and related public works projects.

The transportation budget, which draws most of its support from state and federal taxes, will be introduced in a bill apart from the executive spending plan for the rest of state government.

TUESDAY, FEBRUARY 3 2009

**HOUSE SPEAKER NAMES COMMITTEE CHAIRS, MEMBERS; FINANCE TO START BUDGET HEARINGS NEXT WEEK**

Speaker Armond Budish announced House committee chairs and member assignments Tuesday. As expected, Rep. Vernon Sykes will lead the Finance & Appropriations Committee. Rep. Sykes (D-Akron) said the committee would organize and hold its first biennium budget hearing early next week, with scheduling details pending over the next few days. Budget hearings will kick off with a presentation by Gov. Ted Strickland's administration and an analysis of revenue projections and other information pertaining to the fiscal year 2010-2011 biennium.

Rep. Budish (D-Beachwood) tabbed Rep. Brian Williams (D-Akron) to lead the House Education Committee. The subject area is expected to be an active policy front this spring as the governor's plan to overhaul the school-funding system gets vetted.

Other committee chairs are:

- Aging & Disability Services - Rep. Deborah Newcomb (D-Conneaut)
- Agriculture & Natural Resources - Rep. John Domenick (D-Smithfield)
- Alternative Energy - Rep. Ted Celeste (D-Grandview Heights)
- Civil & Commercial Law - Rep. Okey (D-Carrollton)
- Commerce & Labor - Rep. Kenny Yuko (D-Richmond Heights)
- Consumer Affairs & Economic Protection - Rep. Matt Lundy (D-Elyria)
- Criminal Justice - Rep. Tyrone Yates (D-Cincinnati)
- Economic Development - Rep. Sandra Williams (D-Cleveland)
- Education - Rep. Williams
- Elections & Ethics - Dan Stewart (D-Columbus)
- Environment & Brownfields Development - Rep. Dale Mallory (D-Cincinnati)
- Faith-Based Initiatives - Rep. Michael DeBose (D-Cleveland)
- Finance & Appropriations - Rep. Sykes
- Financial Institutions, Real Estate & Securities - Rep. Joseph Koziura (D-Lorain)
- Health - Rep. Barbara Boyd (D-Cleveland Hts.)
- HealthCare Access & Affordability - Rep. Lorraine Fende (D-Willowick)
- Housing & Urban Revitalization - Rep. Mike Foley (D-Cleveland)
- Insurance - Rep. Dan Dodd (D-Licking Twp.)
- Judiciary - Rep. Sandra Harwood (D-Niles)
- Local Government/Public Administration - Rep. Kathleen Chandler (D-Kent)
- Public Safety & Homeland Security - Rep. Eugene Miller (D-Cleveland)
- Public Utilities - Rep. Tim DeGeeter (D-Parma)
- Rules & Reference - Rep. Todd Book (D-Portsmouth)
- State Government - Rep. Ron Gerberry (D-Austintown)
- Transportation & Infrastructure - Rep. Bob Hagan (D-Youngstown)
- Veterans Affairs - Rep. John Otterman (D-Akron)
- Ways & Means - Rep. Tom Letson (D-Warren)

Speaker Budish announced the committee slates in a joint release with House Minority Leader Bill Batchelder (R-Medina).

"The significant challenges we face to close the budget gap, reform Ohio's education system, and get our economy moving again will require the best efforts of all members, Democrat and Republican," Speaker Budish said.

"There will certainly be disagreement and debate, but we must approach this legislative session with a continued spirit of bipartisanship and cooperation."

Rep. Batchelder said the speaker "has chosen strong leaders to serve and I look forward to the job that lies ahead as we begin to discuss and debate public policy and work together to improve the lives of all Ohioans."

Speaker Budish increased the total of standing committees from 20 to 27 and tinkered with some of the panel titles and focus areas. Among other notable changes that became evident Tuesday: the speaker has broken from tradition and will not chair the Rules & Reference Committee.

Sen. Tom Niehaus (R-New Richmond), the Senate president pro tem, said Senate committee assignments are expected later this week and could be journalized on Thursday. Sen. Niehaus has been filling in on some matters for Senate President Bill Harris (R-Ashland), who broke his thighbone last week walking across the street from the Statehouse.

The lawmaker said Sen. Harris had surgery and has been released from the Ashland hospital. His date of return to legislative activities remains unknown pending fuller recovery, Sen. Niehaus said.

### **GOP SENATE LEADERS QUESTION SPENDING LEVELS; FINANCE CHAIR SAYS EARMARKS TO RETURN**

Let the sifting begin. A day after Gov. Ted Strickland unveiled his second budget, a \$54.7 billion biennium spending plan, legislators, staff and government program stakeholders were poring over the hundreds of pages of documents and spreadsheets to try and determine what it all means. Sen. Tom Niehaus (R-New Richmond), the Senate president pro tem, and Sen. John Carey, the chamber's Finance Committee chairman, said Tuesday they had many questions to ask the administration but at first blush were concerned about the extensive use of nonrecurring revenue sources and the overall spending increase in the plan.

Following a week of similar comments that started immediately after Mr. Strickland's State of the State address, the administration released a document showing one-time monies had been used to cover spending in other recent biennial budgets, including the temporary sales tax hike of fiscal year 2004-2005. However, Messrs. Carey and Niehaus questioned the use of a sizeable chunk of federal stimulus funds - \$3.4 billion according to the administration - and other one-time accounting moves to balance a budget that increases spending of state general revenues by 4.4% and of all funds by nearly 12% over the biennium.

Sen. Niehaus said he noticed in a cursory review of line items that some were denoted as being filled with federal money. "As you go through the budget and you see that line item, then you have to ask yourself, 'All right, when that goes away, how are we going to pay for that.'"

"That's what we're trying to digest right now," he said. "How that money flows through into our operating budget, and what are the implications two years from now what that line item isn't available anymore."

Sen. Niehaus said that for the state to realize an equal amount of funding in two years absent any more federal money, for instance, the sales tax would have to be increased by three percentage points.

"It's nice to have a handout, but how are you going to pay for it when that bill comes due," he said.

Sen. Carey said the first spreadsheet showing the impacts of the school-funding changes indicate that it would appear to increase the kind of funding disparities that were deemed problematic when the state was sued over its system more than a decade ago. He questioned why a property-poor school district like Trimble Local, for example, would lose state funding over the biennium while wealthier districts such as Upper Arlington get double-digit percentage increases.

"How does that reduce school (funding) inequities?" Sen. Carey said. "It appears it increases disparities between school districts, so I want to see how they address that issue."

A preliminary Legislative Service Commission analysis of the governor's plan to lower the required local contribution from 23 to 20 mills of voted property taxes appeared to yield similar results, with that change aimed at eliminating so-called "phantom revenue" mostly benefiting districts with higher property wealth.

Separately, the KnowledgeWorks Foundation announced Internet-based resources on Gov. Strickland's proposed "evidence-based model" of school funding on its School Funding Matters website.

### **ATTORNEY GENERAL'S OPINIONS**

No. 2009-006. Requested by Erie County Prosecuting Attorney Kevin J. Baxter. SYLLABUS:

1. A board of township trustees may not reclaim its interest in sold but unused cemetery lots under a theory that the burial easement has been extinguished by abandonment on the basis of nonuse alone, and it is highly unlikely that the board will be able to establish intent to abandon a sold but unused cemetery lot. (1972 Op. Att'y Gen. No. 72-031, modified.)
2. R.C. 517.07 does not allow any retroactive application to deeds executed on or before July 24, 1986.
3. Existing Ohio law provides no clear and direct legal means by which a township may reclaim and resell cemetery lots that were sold on or before July 24, 1986, and remain unused.