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Legislative Update

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MONDAY, APRIL 13 2009

BALLOT BOARD CERTIFIES CASINO PROPOSAL AS SINGLE ISSUE OVER BRUNNER OBJECTIONS

Declaring a proposal to authorize four casinos a single constitutional amendment, the Ohio Ballot Board cleared the way Monday for gambling companies to start gathering signatures for the November election.

Citing concern over language that would permit the casinos to later install games authorized in neighboring states, Secretary of State Jennifer Brunner, who chairs the board, cast the sole vote against certifying the proposal as a single measure.

Promoted by Penn National Gaming Inc. and Cleveland Cavaliers owner Dan Gilbert, the issue would permit the four casinos to install any type of slot machines or table games that Indiana, Michigan, Pennsylvania, or West Virginia authorizes in the future.

"This one is bothering me because it actually requires even what's in the constitution to be affected by what four other states do," she said, questioning whether the provision should be a separate measure.

Anne Marie Sferra, an attorney with Bricker & Eckler representing horse racing interests, cited the language as one of several reasons the proposal should be split into five separate ballot issues.

"Especially the provision that allows other states to dictate what the future laws in the state of Ohio are going to be - I think those are really separate subjects," she said in response to board member Sen. Fred Strahorn (D-Dayton).

In addition to one measure limiting regulation of the casinos, she argued for isolating provisions regarding their locations, license fees and tax rates, and a prohibition against the General Assembly spending proceeds.

Representing the Ohio Jobs and Growth Committee, attorney Donald McTigue said the provisions are all related and should remain a single ballot issue.

Responding to a question from Secretary Brunner about basing gaming regulations on that of other states, he said, "The issue is for the voters - if they disagree with that flexibility being included, then they could vote no."

Sen. Stephen Buehrer (R-Delta) said he shared concerns over the provision.

"But it doesn't tip the balance away from this being a separate amendment," he added.

Charlie Luken, chair of the Ohio Jobs and Growth Committee, called the Ballot Board's action "a significant step forward" for the proposal that would create \$1 billion in private investment and generate 20,000 jobs.

"We will begin immediately to obtain the more than 400,000 valid signatures needed to put the issue on the November ballot," he said in a statement.

Petitioners can begin circulating petitions once the measure and the attorney general's certification of the summary is filed with the Secretary of State's Office.

SCHOOLS MOST IMPACTED BY BUSINESS TAX CHANGES TO PRESS FOR FORMULA CHANGES

Certain school districts that stand to lose the most from recent changes to the state's business property tax code are forming a coalition to ask legislators to keep them high on the list for a replacement revenue stream.

While the tangible personal property tax is coming to an end, state payments designed to hold school districts harmless for the elimination of the revenue stream (HB66, 126th General Assembly) will continue until 2018, Department of Taxation spokesman John Kohlstrand said.

Reimbursements to school districts, which are based on the amount of TPP tax revenue they received in FY 2004 and the levies that were in place during that time, will begin phasing out in fiscal year 2012, he said. Payments for other local entities start declining the next biennium.

Last session the General Assembly made permanent a provision dedicating 70% of the Commercial Activity Tax revenue to the School District Tangible Property Tax Replacement Fund, he recalled. Heretofore that has been more than sufficient to offset the loss of the TPP tax.

"What hasn't been determined is how the revenue that's in this fund will be distributed," Mr. Kohlstrand said. "It's a decision that will need to be addressed at some point by the General Assembly working with the governor."

Tracy Jarvis, treasurer of Princeton City School District in Hamilton County, wants her district and others that are heavily dependent on TPP tax payments to have a say in that decision.

Princeton schools will lose more than \$3 million a year starting in 2012 and could lose about \$24 million once the guaranteed payments are fully phased-out in 2018, she said. That constitutes roughly a quarter of the district's overall budget.

The 10 districts that received the highest portion of their revenue from the TPP tax have are in the process of forming the Coalition for Fiscal Fairness in Ohio to highlight the need to determine how to allocate the 70% of CAT revenue earmarked for education, she said.

The coalition will advocate for a formula that distributes a higher proportion of the CAT revenues to the districts that are currently highly dependent on TPP guarantee payments, she said.

"We need some kind formula that doesn't cause us to shut our doors. If we lose all \$24 million, we're pretty much going to hand them the keys," she said.

While Ohio's eight large urban school districts generally received the most total revenue from the TPP tax, a variety of districts around the state depend on the funding as a higher percentage of districts' budgets, she said.

FISHER HIRES EX-CLINTON AIDE TO MANAGE U.S. SENATE CAMPAIGN; PORTMAN CLAIMS \$3 MILLION CASH ON HAND

A former aide to Hillary Clinton was introduced Monday as campaign manager for Democratic U.S. Senate candidate Lee Fisher, while the only Republican candidate thus far - Rob Portman - said he has \$3 million cash on hand.

Mr. Portman over the weekend announced a first quarter fundraising total of \$3.17 million for his campaign.

Almost half the total, \$1.4 million, came in the form of a transfer from his previous campaign account dating to his days as a U.S. House member from Cincinnati.

The Portman for Senate campaign said it also raised an additional \$1.7 million during the last three months.

"Our fundraising efforts have only been exceeded by the groundswell of support from Ohioans in every part of our state," Mr. Portman said in a news release.

His campaign claimed "a massive" fundraising advantage over potential rivals Mr. Fisher and Secretary of State Jennifer Brunner, who also is seeking the Democratic nomination. Rep. Tyrone Yates (D-Cincinnati) is the third declared candidate for the nomination.

Mr. Fisher last week said his campaign had raised more than \$1 million in six weeks.

Ms. Brunner has not yet disclosed fundraising totals. First-quarter reports are due Wednesday at the Federal Election Commission.

U.S. Sen. George Voinovich (R-Cleveland) is not seeking re-election next year.

Separately, Mr. Fisher said Monday he hired Geri Prado, who in 2008 was deputy national political director for Ms. Clinton's presidential campaign, to manage his Senate drive.

Ms. Prado's prior experience includes being deputy political director at the Democratic Senatorial Campaign Committee in the 2006 election, and John Kerry's caucus director in the New Mexico 2004 primary. Earlier, she was political director for the Service Employees International Union in Colorado.

Others on Mr. Fisher's campaign staff include Lauren Goode as political director, and Alan Melamed and Jan Roller as senior advisors.

The Fisher campaign also signed AKPD Message and Media as its media consultant, and Mark Mellman of the Mellman Group for polling.

Mr. Fisher said in a news release he was pleased with the way the campaign has started.

"I take nothing for granted and know it's going to be a hard fought race. I am proud of the team we put together," the lieutenant governor said.

TUESDAY, APRIL 14 2009

OBM CHIEF FIELDS QUESTIONS ON SUSTAINABILITY; LSC DETAILS IMPACT OF FEDERAL TAX CHANGES TO BUDGET

The Senate got a head start on its biennium budget deliberations Tuesday with the state budget director defending Gov. Ted Strickland's \$54 billion plan and the head of the Legislative Service Commission providing an alternative set of revenue estimates.

Given the House has yet to make changes to the budget measure, Office of Budget and Management Director Pari Sabety's testimony mostly mirrored her presentation to the House Finance Committee earlier this year.

The director did note that OBM has been working with the House and is supportive of certain changes to the new K-12 funding system that are to be unveiled on Wednesday. *(See separate story)*

LSC Director Mark Flanders, meanwhile, said in prepared testimony that the legislative agency's revenue forecast for the biennium is \$244.2 million, or 0.4%, higher than OBM's estimates. However, he also informed the Senate Finance & Financial Institutions Committee of potential reductions in state revenue as a result of recent federal tax law changes.

Because of changes that include impacts to taxpayers' federal adjusted gross income, and the increase in the federal tobacco tax, he said LSC estimates the state will take a tax revenue hit to the tune of \$111 million in FY 2010 and \$62.2 million in FY 2011.

Those reductions, of course, pale in comparison to the billions in federal stimulus bill money being used to bolster the governor's two-year budget plan, and questions regarding the use of the nonrecurring funds and the impact in the years beyond FY 2011 again dominated Ms. Sabety's Q&A session with lawmakers.

In responding to GOP lawmakers' concerns in that area, the OBM director reiterated her position that by restructuring the Medicaid program to reduce reliance on the GRF, taking other long-term state program cost containment measures, making "tough choices" in general and accounting for economic stabilization that is projected to boost tax revenue by \$1 billion in the FY 2012-2013 biennium, policymakers could avoid a tax increase two years from now.

"We believe that with continued tough choices we will be able to meet those challenges in the years ahead," Ms. Sabety told Chairman Sen. John Carey (R-Wellston).

Similarly, members of the Senate GOP majority, as have Republican minority lawmakers in the House, continued to express skepticism with OBM's contention that the budget proposal wasn't setting the state up for a huge tax hike.

Sen. Bill Seitz (R-Cincinnati), for example, said he had no problem with the use of the "one-time" federal money in the budget, rather he's concerned with the lack of a "clear plan" for the out years when that money is no longer available.

While acknowledging again that the administration and legislature would have to work together in the future on difficult budget decisions, Ms. Sabety said, "Right now, our concern is building a budget for 2010 and 2011."

Sen. Gary Cates (R-West Chester) called predictions of double-digit unemployment over the next two years "staggering" in asking: "How are we going to get growth in the revenue" under such circumstances.

Ms. Sabety said tax credits in the package, the commitment to the final phase in of tax law changes and solid funding for higher education in the plan will help create jobs and bolster personal income tax receipts down the line.

"It is clear that tax reform is going to have a profound impact on our economy," she said.

In response to Sen. Chris Widener (R-Springfield), Ms. Sabety said projected tax revenue in the plan currently totals \$17.162 million in 2010 and \$17.268 million in FY 2011.

Sen. Jason Wilson (D-Columbiana) asked about the proposed use of most of the state's \$1 billion "rainy day" Budget Stabilization Fund in the plan. The director said it would help the state "withstand the ongoing negative impacts" of the economy, adding that the time was right to tap the money because, "You want to access the rainy day fund at a time when you get a sense things may be moving up."

Director Sabety told Sen. Mark Wagoner (R-Ottawa Hills) that bond-rating agencies would consider the circumstances when judging Ohio's budget plan, noting that some other state's face tougher revenue shortages and most "are implementing some extraordinary budget moves."

She told Sen. Wagoner that the administration believes he state does not need to consider a one-year budget. "I have confidence we can build a two-year budget and we can do so responsibly," Ms. Sabety said.

Responding to Sen. Dale Miller (D-Cleveland), the director said state agencies are currently operating under budgets that are 18% lower than originally appropriated for the biennium (HB119, 127th General Assembly).

Ms. Sabety told Sen. Shirley Smith (D-Cleveland) that earmarks were left out of the budget to give agencies more discretion over how they allocate their limited resources.

Sen. Ray Miller (D-Columbus) said he was concerned about an apparent plan to remove Gov. Strickland's proposed sentencing reforms from the bill. "It doesn't make a lot of sense to me, particularly given the costs of incarceration," he said.

The OBM director said she couldn't speak to the issue directly given the House has yet to make changes, however she noted the proposals were expected to reduce pressure on the state's prison system by avoiding 6,700 inmate bed costs in part through more extensive uses of community corrections options. Ms. Sabety said the budget increases community corrections funding by \$10 million a year within the Department of Rehabilitation and Correction budget.

APPEALS COURT RULES LEGISLATIVE CLERICAL ERROR DOOMS LAME-DUCK CAMPAIGN FINANCE LAW

An appeals court ruled Tuesday that a Franklin County judge correctly struck down the General Assembly's attempt to re-enact a campaign finance law that the judge had earlier found was unconstitutionally passed.

The 10th District Court of Appeals rejected, in a 3-0 opinion, the state's attempt to overturn the ruling last June from Common Pleas Judge John Bender.

He concluded that provisions of the campaign finance law (HB694, 126th General Assembly), which legislators incorporated into a subsequent biennial budget bill, were not rationally related to the rest of the measure.

As a result, he said, they violated the Ohio Constitution's requirement that bills contain a single subject expressed in their titles. The litigation began when the United Auto Workers challenged enactment - during a lame-duck session - of the initial bill. It was intended to place limits on the ability of county commissioners and other boards to award government contracts. Those limits were based on campaign contributions. The measure passed the House. The Senate passed the same version, but then reconsidered and approved instead an amended version. It went back to the House and was passed there as well.

An error in the House clerk's office gave rise to the lawsuit. Instead of copying the final version of the bill, the office prepared the enrolled copy based on the now outdated text that had first passed the House. Legislative leaders wound up signing the wrong version, as did the governor. The clerk's office learned of the error and tried to correct it by obtaining permission from the Secretary of State to substitute the correct text.

Judge James Brogan, writing for the 10th District panel Tuesday, said all parties to the appeal took pains "to note that this substitution was in no way undertaken in a surreptitious or covert manner."

He said the parties disagreed, however, on the impact of the errors upon the validity of the legislation.

Judge Brogan agreed with the trial court that the original bill had not lawfully been enacted.

"No one disputes the innocence of the clerical error that led to the present controversy; the innocence of that error, however, merely underscores the dangers we face if we open the door to a breach of the strict constitutional procedures for enacting legislation in Ohio," he said.

"Less innocent circumstances are not difficult to imagine by which different statutory language, on the basis of a purported clerical error, could be offered after the fact and against the will of the members of the General Assembly who had voted for or against the bill concerned," Judge Brogan said.

The appellate panel did not address the alleged violation of the single-subject rule, saying that issue was moot. Matters before the panel dealt only with the manner in which the legislation was enacted and then modified. Constitutionality of the legislative language itself was not before the court.

Concurring with Judge Brogan were 10th District Judges Judith French and Gary Tyack. Judge Brogan, a member of the 2nd District Court of Appeals, heard the case in the 10th District by assignment.

CHANGES FOR PUBLIC CONSTRUCTION TO CUT COSTS, SPEED BUILDING COULD WIND UP IN BUDGET; NON-UNION CONTRACTORS OBJECT

Gov. Ted Strickland said Tuesday a series of proposed changes in the way Ohio administers billions of public construction projects could possibly wind up in the state budget. Non-union contractors hope that is not the case.

An Ohio Construction Reform Panel the governor created last August delivered a report with 25 recommendations that would provide government entities new methods of carrying out projects, cutting time and costs in the process.

State-assisted universities, which had sought some of the proposed changes in previous years without success, contend their implementation now could result in millions of dollars in savings.

Director Hugh Quill of the Ohio Department of Administrative Services said he had heard anecdotally that savings could range from 10% to 30%.

"But at the end of the day, if the savings of both public and private dollars is only seven percent of a three billion dollar spend, I think that's well worth our efforts," he said in an interview.

Delivery of the recommendations coincides with the state's anticipated receipt of \$8 billion in federal economic stimulus money over the next 18 months.

"A substantial portion of this money is aimed at 'shovel-ready' public works projects," the report said. "Several of the panel's recommendations could make it easier for Ohio to maximize funding opportunities offered by federal economic stimulus programs."

Stakeholders represented on the panel included contractors, trade unions, construction management, and state agencies, including the Ohio Board of Regents and The Ohio State University.

At the top of a list of proposals: expanding construction delivery options beyond the existing Multiple Prime Contracting and Construction Manager as Advisor Contracting.

In order to create flexibility in project delivery methods, based on specific project needs, the panel recommended the addition of the Design Build, Construction Manager at Risk, and General Contracting (single prime) methods.

"The panel was able to agree on adding the three additional forms of construction delivery if they were accompanied by protections for contractors and other state construction vendors," an executive summary of the report said.

Those items would require legislative approval, as would another proposal to eliminate an existing requirement for newspaper advertising of construction management services and construction bidding.

"While newspaper advertising is just one channel of communication, it is the most costly means of notification, has very prescriptive requirements, and is no longer the best means of seeking interested parties," the report said.

It said posting projects on a government website could save the state more than \$1 million a year. Newspaper advertising would remain as an option.

Gov. Strickland said he has not yet read the report that was delivered to his office Friday.

"I think they were dealing with some important and legitimate issues, and it is my hope that much or all of it will be acceptable. But I cannot say that at this point because I have not really read it," he said.

Mr. Strickland said he had not thought about asking legislators to incorporate the proposed changes into the pending biennial budget (HB 1).

"It's possible, I guess," he said. He pointed out that some other of the recommendations could be implemented through executive order.

"Probably we'll pursue both avenues of enactment," the governor said.

Director Quill identified as major advantages among the 25 recommendations increased collaboration, shorter time frames that would speed project completion, and avoidance of disputes.

One of the recommendations calls for a streamlining dispute resolution processes.

"Facilitated partnering during all phases of a project to proactively manage design and construction relations will allow parties early on to cooperatively identify an alternate dispute resolution (ADR) process for the specific project," the report said.

Mr. Quill said each of the 25 recommendations received support from at least 75% of panel members, and that most were in the 90% approval range. He said the group urged "expeditious implementation" of the proposals.

"What form that takes is a matter to be determined between the governor's office and the legislators," he said.

Associated Builders and Contractors, the trade group representing non-union contractors, objected to its exclusion from the process.

ABC, the largest construction organization of merit-shop contractors and workforce, said its attorneys were reviewing the recommendations.

"Had we been allowed to participate in the reform panel, as we requested at the beginning of this process, we would have been able to share our suggestions and concerns throughout the process," said Shane Ostrowski, director of government affairs.

"In addition, we would have been able to inform our members and found additional feedback," he said in a news release.

Mr. Ostrowski said the recommendations deserve independent votes in the General Assembly instead of being "quietly placed into the budget or other omnibus" legislation.

"It would have been more conducive to find consensus during panel discussions over the last several months, but the governor chose to ignore ABC," he said.

Ron Sylvester, DAS spokesman, said Gov. Strickland had directed the panel not to address certain issues, such as the payment of prevailing wages, in its deliberations.

"One issue we had with ABC in the very beginning is that when this issue of construction reform was discussed they took a very, very strident issue with the fact that we were not going to deal with prevailing wage," Mr. Sylvester said.

"Frankly, they sort of talked themselves out of the process because of that," he said.

Director Quill said all participants in the study did not get what they necessarily wanted.

"Everybody can't be represented at the table," he said. "We couldn't have the construction reform panel dominated by an issue that was off the table by design."

INTRODUCED IN THE HOUSE

HB 131 TURNPIKE MAINTENANCE (Wagner) To make the Ohio Turnpike Commission responsible for major maintenance and repair and replacement of grade separations at intersections of any turnpike project with county and township roads. En. 5537.051

INTRODUCED IN THE SENATE

SB 109 PROPERTY TAXES (Gibbs) To exempt from real property taxation the value of single-family residential property owned by a developer or builder until the developer or builder transfers possession or title. En. 5709.29

SB 110 HOUSEHOLD SEWAGE (Niehaus) To revise the Household Sewage and Small Flow On-Site Sewage Treatment Systems Law, and to declare an emergency. Am. 711.05, 711.10, 3718.01, 3718.02, 3718.03, 3718.04, 3718.05, 3718.06, 3718.09 and 6117.51

WEDNESDAY, APRIL 15 2009

TPP Tax: Separately, Sen. Jimmy Stewart announced plans to sponsor legislation that would postpone reductions in reimbursements to school districts and local governments that lost funding when the legislature eliminated the tangible personal property tax.

Concern over Gov. Strickland's proposed changes to school funding combined with the economic recession have created uncertainty over schools' future revenue stream, he said.

"While I believe elimination of the state's tangible personal property tax will have a positive impact on our state's economy over the long-term, our school districts and local governments cannot afford to lose this steady funding source, particularly during these tough economic times," Sen. Stewart said in a statement.

"This bill would not only help bring some certainty to local school and government budgets, but help preserve educational opportunities for our children, protect jobs and maintain critical services for Ohioans," he said.

GROCERS DISPUTE CLAIMS OF ADVOCACY GROUPS IN SUPREME COURT CASE OVER COMMERCIAL ACTIVITIES TAX

The Ohio Grocers Association expressed "much disappointment" Wednesday with five anti-poverty groups for asserting, in an Ohio Supreme Court case, that grocers want an exemption from paying the state's Commercial Activities Tax.

Thomas Jackson, president and chief executive officer of the grocers trade group, said the argument from the organizations was inaccurate because grocers would continue to pay the CAT on non-food items.

Mr. Jackson said the matter pending before justices was a challenge to the constitutionality of the CAT as applied to the sale of food for off-premises consumption.

"I am tired of grocers being accused of not wanting to pay their fair share of taxes. This is simply not true," he said in a news release.

"Grocers have always and will continue to pay their fair share of taxes. Grocers simply want to ensure that the taxes they pay are constitutional and are in proportion to their business income," Mr. Jackson said.

Five anti-poverty organizations were among two-dozen groups that filed friend of the court briefs earlier this month urging the Supreme Court to rule in favor of the state in its battle to continue applying the CAT to the food industry.

The Ohio Legal Assistance Foundation and the four other advocacy groups said "the grocer carve-out" would reduce funding that the state could provide for assisting low-income persons.

Mr. Jackson said in a letter to the Coalition on Homelessness and Housing in Ohio that its arguments were inaccurate and short sighted.

"It appears that you have chosen to ignore the fact that the CAT increases food costs for all Ohio citizens, especially the poor," he said.

Joining the foundation in filing the brief were the Corporation for Ohio Appalachian Development, Ohio Association of Free Clinics, Coalition on Homelessness & Housing in Ohio, and the Ohio Council of Behavioral Health & Family Services Providers.

"If the above-mentioned groups were focused on advocating for the poor, instead of the state's general revenue fund, they would have filed an amicus brief on our behalf," Mr. Jackson said.

"We trust that the Ohio Supreme Court justices will see through these transparent arguments and focus on protecting the Constitution of this great state," he said.

CLEVELAND AIRPORT LANDS \$20 MILLION U.S. STIMULUS GRANT; CONGRESS URGED TO FIX ERROR IN LAW AFFECTING RETIREES

The U.S. Department of Transportation said Wednesday that \$20 million in economic stimulus money is winging its way toward Cleveland-Hopkins International Airport.

Secretary Ray LaHood said the money, distributed through the Federal Aviation Administration, would finance construction of a taxiway and apron.

"Through the American Recovery and Reinvestment Act we are creating jobs in Ohio and across the country while investing in the long-term safety and economic vitality of our airports," Mr. LaHood said in a news release.

The FAA received \$1.1 billion in stimulus funds for allocation to qualified airports on a discretionary basis.

Grants are being awarded on the basis of a project priority system that includes airport safety and security, infrastructure, runway safety, increased capacity, and mitigation of environmental impacts.

Retirees-Taxes: Republican U.S. Reps. Jim Jordan of Urbana and Pat Tiberi of Galena are backing resolutions of two state legislators urging Congress to fix a provision in the federal stimulus law that could mean higher taxes for retirees.

Reps. Jordan and Tiberi sent a letter to the Internal Revenue Service earlier this month alerting them to an error in the "Making Work Pay" tax credit.

The U.S. House members said the error causes an incorrect amount of federal taxes to be withheld from the benefit checks of those receiving "unearned" retirement income.

The congressmen on Friday will join Sen. Jimmy Stewart (R-Albany) and Rep. Josh Mandel (R-Lyndhurst) in announcing the introduction of companion resolutions dealing with the same IRS subject.

The state measures will ask Congress and the IRS to fix the problem, and to ensure retirees are not surprised by an increased tax bill next year.

THURSDAY, APRIL 16 2009

STRICKLAND SLAMS STATE AUDITOR'S CLAIMS THAT PROPOSED BUDGET IS 'UNSUSTAINABLE'

Republican State Auditor Mary Taylor's assertion that Democratic Gov. Ted Strickland's \$54 billion biennium budget package will create an \$8 billion imbalance two years from now was met with a sharp rebuke and a question Thursday from the state's top officeholder.

"What taxes would you increase or what services would you cut, rather than utilize the federal stimulus resources that rightfully belong to Ohio taxpayers?" Mr. Strickland asked.

Ms. Taylor prompted the query with the release of a "sustainability analysis" of the fiscal year 2012-2013 budget picture based on the administration's own estimates for tax revenue over the period as well as information gleaned from the FY 2010-2011 budget plan currently under review in the legislature (HB 1).

If the current plan remains unchanged, she said in a news release, Ohio will face a \$7.9 billion "shortfall" in two years, in part because Mr. Strickland's budget relies so much on federal bailout money.

"Ohioans deserve to know where our state is headed," Ms. Taylor said. "This budget should not pass in its current form without a full understanding of the serious, long-term consequences it will have for Ohio and our citizens."

Ms. Taylor's critique echoes the sentiment aired by Republican lawmakers who, during deliberations on the budget package, have repeatedly questioned the extensive use of federal stimulus funds.

House Minority Leader Bill Batchelder (R-Medina) welcomed the auditor's analysis, saying in a statement that she should be "recognized for her forward thinking."

"Since legislators have not been able to obtain clear information from the Strickland Administration, this analysis was much needed," he said. "It has been apparent from the start that the use of one-time funds would take this state down a fearsome path. You cannot spend more than you take in and expect to have a balanced budget in two years when the federal funds are gone."

Gov. Strickland, on the other hand, accused Republicans of focusing on complaints rather than concrete solutions. "Ohio leaders have a responsibility to say what they would do, not just what they oppose," he said.

"Auditor Mary Taylor appears to be advocating for tax increases or severe service cuts at a time when too many Ohioans are struggling to make ends meet," the governor said. "I continue to believe that increasing taxes on Ohioans during this national economic downturn would deepen the effects of the recession in Ohio and hurt, rather than help, Ohio families striving to emerge from this recession."

Ms. Taylor's analysis assumes spending will continue to rise in the 2012-2013 biennium by more than \$1.8 billion, or 6.5%, in the first year and nearly \$1.3 billion, or 4.2%, in the second year due to projected increases in the Medicaid entitlement and other programs. Revenues, absent federal stimulus funds, would drop almost \$2 billion, or 6.7%, in FY 2012 and increase by \$1.13 billion, or 4.2%, in FY 2013.

"We cannot continue to push our problems off until tomorrow, because the huge shortfall we project for 2012 and 2013 won't go away by simply ignoring it," Ms. Taylor said. "We need to get ongoing spending in line with ongoing revenues. That will require action and tough decisions."

Gov. Strickland said his plan reflects "a fiscally responsible, sustainable budget that lives within our means while continuing to invest in education, health care and job creation to strengthen Ohio's economy."

"If we put aside heated rhetoric and partisan gamesmanship, there emerges a simple truth about federal stimulus resources," the governor added. "Without them, more Ohioans would lose jobs, fewer Ohioans would have access to health care, teachers would be laid off, tuition would increase, prisons would be forced to close, mental health and other important community services would be cut, and fewer Ohio jobs would be created."

"If these are the actions that Mary Taylor and legislative Republicans are advocating for, they should come out and say so."

Rep. Batchelder said in an interview that Republicans have come up with alternatives only to see them ignored by the administration. "There are a number of things that we've already talked about," he said.

The minority leader pointed to legislation to consolidate agencies and streamline state government, which he said could save \$1 billion a year. Republicans also want to target unnecessary spending in the \$12 billion-plus annual Medicaid entitlement, Mr. Batchelder said.

"We obviously have to do a better job of policing Medicaid than we're doing," the lawmaker said. Much of the anticipated savings, he added, "have to do with efficiencies."

Rep. Batchelder also suggested that more stimulus money should be used to retrain workers and, as a result, bolster state revenues by increasing the taxpayer base with more employment.

At an evening news conference, the governor added to his earlier statement, saying Ohio needs its leaders to put aside partisanship and gamesmanship.

He said his administration months ago detailed the prospects of a \$7 billion-plus shortfall, much of which was plugged by federal stimulus funds. "We did not sit on the sidelines, pointing fingers, laying blame," he said.

Those federal funds, he said, are being used to create jobs, keep tuition in check, maintain health care access and keep teachers in the classroom.

Now, he said Ms. Taylor and legislative Republicans are offering criticisms without offering suggestions. He called for critics to provide potential budgetary solutions, saying he was willing to work in good faith with officials who offer ideas to improve the budget.

"I'm not hearing a lot of positive messages about what should be done," he said, saying state officials have a "shared responsibility" to manage the state.

Mr. Strickland again said he doesn't feel a tax increase should be implemented, adding that such a change could harm the already-troubled state economy.

PRESIDENT PUTS NATION ON TRACK FOR HIGH SPEED RAIL WITH PLAN THAT INCLUDES OHIO ROUTES

President Barack Obama unveiled a proposal Thursday "to transform travel in America" with creation of high-speed, 110 mph railroad passenger lines from coast to coast, including three slicing into Ohio.

Mr. Obama said such a system would reduce dependence on cars and planes while spurring economic development.

The White House released a strategic plan that is initially based on \$8 billion in already-approved federal economic stimulus money, and \$1 billion a year for five years proposed in the pending federal budget.

The \$13 billion total was characterized in a news release "as a down payment to jump-start a potential world-class passenger rail system."

Still to come is detailed guidance for state and local applicants who seek part of the money available. The Federal Railroad Administration is expected to begin awarding the first round of grants by late summer.

Gov. Ted Strickland welcomed the announcement.

"I applaud President Obama for his visionary leadership and commitment to passenger rail service," he said. "Decades from now we will view this renewed investment in rail as we view President Eisenhower's investment in the interstate highway system—one that all Americans rely on for the efficient transport of people and commerce. The Obama strategic plan includes five Ohio cities as part of the planned Chicago Hub Network, which illustrates the state's important central position for transportation opportunities in the Midwest region.

Additional funding for long-term planning and development is expected in legislation authorizing federal surface transportation programs.

The proposal identifies ten major corridors for potential high-speed rail projects, including what is referred to as the Chicago Hub Network.

It includes a route from Cleveland through Toledo across northern Ohio, a route from Cleveland through Columbus to Cincinnati, and a route from Chicago through Indiana to Cincinnati.

They represent three of seven potential routes previously identified in the Ohio Hub Plan from the Ohio Rail Development Commission.

Gov. Strickland's new transportation budget, which takes effect July 1, authorizes state agencies to apply for federal funding for conventional Amtrak service from Cleveland to Cincinnati, via Columbus and Dayton.

If that system is eventually built and the General Assembly approves operating funds, those trains would run at speeds of no more than 79 miles per hour.

President Obama said a high-speed rail line would generate thousands of construction jobs over several years, permanent jobs for rail employees, and increased economic activity in destinations the trains reach.

"High-speed rail is long-overdue, and this plan lets American travelers know that they are not doomed to a future of long lines at the airports or jammed cars on the highways," he said in a news release.

INTRODUCED IN THE SENATE

SB 111 TAX PAYMENTS (Stewart) To make permanent the temporary reimbursements for local government and school district tangible personal property tax losses.

FRIDAY, APRIL 17 2009

HOUSE TO INCREASE BUDGET SPENDING THROUGH FEE HIKES, OTHER CHANGES

The House is poised to expand revenues and appropriations in Gov. Ted Strickland's biennium budget plan, the new version of which is slated for a rollout on Tuesday.

Rep. Vernon Sykes (D-Akron), chairman of the Finance & Appropriations Committee, said in an interview that the House would beef up the package (HB 1) by reinstating earmarks, pulling in additional federal matching money, and imposing numerous other changes.

"Our budget will look better than the governor's budget in that the governor did not set very many earmarks, if any at all," he said. "We were able to make those decisions within the priorities so there will be earmarks."

"We have identified some additional resources and revenues as well, so there will be additional resources above the governor's budget," he said.

Rep. Sykes did not provide details, saying the bottom line figures wouldn't be finalized until their release next week. He said, however, the new spending would include a mix of money from the federal government and other sources but would not entail a tax increase.

As introduced, Gov. Strickland's budget proposed \$54.37 billion in appropriations over the next biennium, a total that entailed a 3.21% reduction in general revenue fund spending in the first year and an 8.6% GRF increase in the second.

"In austere times, people become creative. We have a strong team of staff and members, and they're very creative in bringing more federal dollars in as far as match and looking at other efficiencies within the state to improve the overall allocation," he said.

"You may see some additional fee enhancements," he added, "particularly those that haven't been adjusted (for a while) and don't meet" related program requirements.

Among the additional revenues in the bill is a boost in the new hospital Medicaid franchise fee under an agreement that House Speaker Armond Budish (D-Beachwood) brokered with the Ohio Hospital Association. The group, which has lobbied vigorously against Gov. Strickland's plan, saying it would cost the institutions more than \$400 million over the biennium, had also raised objections to the speaker's initial proposal.

"The speaker has told the (association) Substitute House Bill 1 will include provisions he initiated to address hospitals' concerns with the proposed new fee as well as a Medicaid managed care contracting issue," OHA said in a statement.

OHA said Mr. Budish's plan "would raise the assessment to increase the amount of federal funds that would be returned to hospitals. Instead of losing an estimated \$411 million over the two-year budget that begins July 1, OHA estimates hospital losses would be reduced to \$127 million."

"Hospitals also applaud Budish's pledge to preserve the fundamental right of two private parties to negotiate a contract by removing language regarding hospital contracts with Medicaid managed care plans, the group stated. "The speaker also pledged to add language to the budget bill bolstering a promised 5-percent increase in state Medicaid reimbursement rates."

Rep. Sykes also indicated more money would go to the nursing home industry, which has maintained that facilities would lose \$227 million in fiscal years 2010-2011 under the governor's plan.

"I believe we have come to some understanding on many of the issues the nursing homes face," he said. Asked if that meant the House would provide more funding for the facilities, Rep. Sykes said: "They wouldn't be happy if we didn't."

The administration eliminated numerous earmarks in the \$1.1 billion annual Temporary Assistance for Needy Families block grant program. Rep. Sykes said the House was trying to mitigate some of the losses in that area, which took a hit in the executive budget due to the state's depletion of surplus TANF money in recent years.

"We are going to address that area, he said. "We won't be able to maintain the same level of support as we have in previous biennia."

Chairman Sykes said he does not believe any agencies will get less funding in the House Democrat's budget than what was proposed under the governor's initial spending plan.

Among the areas that will get additional money, he said, are Department of Development initiatives aimed at job creation and the agricultural Extension Program.

One major policy difference will be the postponement of sentencing reforms in the budget that were designed to reduce costs and overcrowding in the state's prison system. As indicated last week, the sentencing language will be pulled to allow for the Council of State Governments to conduct an independent review of Ohio's system.

"With their recommendations, I think we'll be better able to look at the system in a comprehensive way and I think we'll be more effective in implementing some of the changes recommended from their study," Rep. Sykes said. "Without that comprehensive, outside objective intervention, it would be difficult to change some of the tough-on-crime kind of attitudes that we have that caused us to be in the situation we are in now."

Chairman Sykes said the House also would include a compromise plan for the consolidation of "back office" administration for state boards and commissions.

"There is some meeting of the minds with a large majority of the boards and commissions on agreeing to some voluntary use of administrative general services so some of those efficiencies will be realized," he said.

Budget Schedule: Chairman Sykes scheduled the unveiling of the substitute version of the budget for the House Finance Committee meeting at 1:30 p.m. Tuesday, April 21 in Statehouse Hearing Room 313.

During the same hearing Tuesday, the panel will hear testimony related to issues reviewed by the Transportation & Justice and the Agricultural & Development subcommittees of Finance.

On Wednesday, starting at 9:30 a.m., the committee will field testimony on matters heard by the Human Services and Higher Education subcommittees. On Thursday, the full committee will take testimony on primary & secondary education areas of the budget during its hearing to begin at 9:30 a.m.

Finance Committee and full House votes on the measure are slated for the week of April 27.

Meanwhile, preliminary hearings are slated to continue in the Senate Finance & Financial Institutions Committee, which is set for morning and afternoon hearings on Tuesday, Wednesday and Thursday. Representatives of numerous state agencies, boards and commissions are scheduled to testify during the week.

CLEVELAND TAKES CAMERA-GENERATED SPEEDING TICKET CASE TO OHIO SUPREME COURT

The City of Cleveland is asking Ohio's Supreme Court to overturn an appellate panel's decision that freed a law firm from civil speeding tickets an automated camera system generated.

City attorneys told justices that a ruling from the 8th District Court of Appeals striking down the citations has exposed it to potential monetary damages, and to potential repayment of penalties already collected from lessees of vehicles that were ticketed.

The appeals court ruled earlier this year that the Dickson & Campbell law firm could not be held liable for two speeding tickets because it was leasing the vehicle and was not the owner.

The appeals panel said in a 2-1 opinion that the Cleveland traffic camera ordinance provides that the owner of a vehicle is liable for any penalties imposed.

The majority pointed out the city's separate parking law distinguishes between a vehicle owner and lessee for violations.

In asking the Supreme Court this week to review the case, the city said another plaintiff already is trying to use the appellate decision as the basis for a class action lawsuit against the municipality.

Mark Musson, assistant city law director, said administrative proceedings and corresponding judicial review related to traffic violations using automated cameras is a rapidly growing area of law.

"The array of disputes arising from the administrative proceedings in this recently developed area of home rule authority is expanding due to administrative proceedings' relative informality, public accessibility, the parameters of developing relevant issues, and the availability of speedy and efficient judicial review," Mr. Musson said.

"Consequently, the number of individuals throughout the state of Ohio that are involved in the administrative proceedings is increasing as automated traffic enforcement camera systems become more established in the state," he said.

Cleveland asked the Supreme Court to find that lessees of vehicles are liable if the Ohio Bureau of Motor Vehicles identifies them as the registered owners.

In the disputed case, the BMV listed VW Credit Leasing, Ltd. first on a registration printout. Dickson & Campbell was listed under "additional owner name."

Justices could decide to accept the case for review, or let the appellate decision stand.

GOP CONGRESSMEN, STATE LEGISLATORS URGE CORRECTION IN TAX WITHHOLDING FOR RETIREES UNDER FEDERAL STIMULUS LAW

U.S. Reps. Patrick Tiberi of Galena and Jim Jordan of Urbana returned to the Statehouse on Friday - where they both served before moving to Washington - to join state Republican colleagues in seeking protection for retirees from unexpected tax bills.

They welcomed the anticipated introduction of resolutions from Sen. Jimmy Stewart of Albany and Rep. Josh Mandel of Lyndhurst urging the federal government to correct an error in the "Making Work Pay" tax credit that applies to earned income only.

The credit was included in the massive economic stimulus package Congress enacted in February.

The law puts more money in the paychecks of working individuals by reducing the amount of tax withheld.

The error occurred because the new Internal Revenue Service schedules will not withhold enough in federal taxes from the benefit checks of pensioners receiving unearned retirement income.

As a result, they could face unanticipated tax liabilities at the end of the year. The revised withholding tables took effect April 1.

Persons collecting unearned income such as Social Security on pension benefits may qualify for a \$250 refundable income tax credit instead of the credit for earned income.

"This could be a relatively easy fix that will save hundreds of thousands of recipients' future headaches, and fixing this either through IRS action or legislation is the right thing to do," Rep. Tiberi said.

Rep. Jordan said "tens of thousands" of retired teachers, firefighters and police officers in Ohio now face an unexpected tax bill next year.

"There is still time to fix this problem. We need action from the IRS and the Democrats in control of Congress," he said.

STATE UNEMPLOYMENT RATE UP SLIGHTLY TO 9.7%, ODJFS REPORTS

Ohio's unemployment rate ticked up again in March to 9.7%, the Department of Job and Family Services reported Friday. The adjusted rate for the prior month was 9.5%.

"Ohio's labor market experienced additional job losses in March," ODJFS Director Douglas Lumpkin said in announcing the latest state unemployment data. He said losses in the service-producing and goods-producing sectors led the decline.

The national unemployment rate for March was 8.5%, up from 8.1% in February. The state reported a decrease in nonfarm wage and salary employment over the month by 37,500 to 5,157,200.

The total of unemployed workers in the state increased over the month by 11,000 to 578,000, ODJFS reported. The number of unemployed workers has increased by 211,000 in the past 12 months and the rate is up from 6.1% in March 2008.

The manufacturing sector, with 98,600 job losses, has led the decline over the past 12 months, which saw nonagricultural wage and salary employment fall by 229,600, the state reported.

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