

STATE OF OHIO  
**Executive Department**

OFFICE OF THE GOVERNOR

*Columbus*

VETO MESSAGES



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**STATEMENT OF THE REASONS FOR THE VETO OF ITEMS IN  
AMENDED SUBSTITUTE HOUSE BILL 59**

**JUNE 30, 2013**

Pursuant to Article II, Section 16 of the Ohio Constitution, which states that the Governor may disapprove any items in a bill making an appropriation of funds, I hereby disapprove the following items contained in Amended Substitute House Bill 59 and set forth below the reasons for so doing. The text I am disapproving is identified in this message by reference to the corresponding page and boxed text of the bill.

**ITEM NUMBER 1**

- On page 2, delete the following boxed text, "935.01," "935.03," and "935.041".
- On page 21, delete the following boxed text, "935.01," "935.03," and "935.041".
- On page 641, delete the boxed text.
- On page 642, delete the boxed text.
- On page 643, delete the boxed text.
- On page 644, delete the boxed text.
- On page 645, delete the boxed text.
- On page 646, delete the boxed text.
- On page 647, delete the boxed text.
- On page 3239, delete the following boxed text, "935.01," "935.03," and "935.041".

**Dangerous Wild Animals/Spider Monkey Ownership and Standards Exemption**

This item would remove spider monkeys from the list of primates classified as dangerous wild animals, and exempt owners of spider monkeys from the requirements for proper housing, care and safety of these dangerous animals. These changes are an unjustified step backward from the current law, therefore, this veto is in the interest of the public.

## **ITEM NUMBER 2**

On page 1300, delete the boxed text.

On page 1301, delete the boxed text.

### **Gifted Funding Spending Mandates on School Districts**

This item mandates how schools spend their gifted state formula funds. Ultimately this mandate would force traditional school districts to hire a prescribed number of gifted personnel. Because it is a priority of the state to avoid such mandates, as well as to preserve maximum local control of schools, how state formula funds are spent should, to the greatest degree possible, remain a decision for independent local school boards. It is important for our schools to have the flexibility to spend funds as they see fit, therefore, the veto of this item is in the public interest.

## **ITEM NUMBER 3**

On page 3, delete the following boxed text, "3313.539".

On page 4, delete the following boxed text, "3707.511".

On page 21, delete the following boxed text, "3313.539".

On page 22, delete the following boxed text, "3707.511".

On page 1125, delete the boxed text.

On page 1126, delete the boxed text.

On page 1127, delete the boxed text.

On page 1128, delete the boxed text.

On page 1566, delete the boxed text.

On page 1567, delete the boxed text.

On page 1568, delete the boxed text.

On page 3240, delete the following boxed text, "3313.539" and "3707.511".

### **Chiropractors and Policies for Assessing and Clearing Student Athletes with Concussions**

This item authorizes licensed chiropractors to assess and clear concussed student athletes. In the prior General Assembly, legislation was enacted to protect youth athletes from the dangers of sports-related concussions and was crafted with input from the full spectrum of health care professionals. Because of the potentially significant dangers from improperly treated concussion injuries, this item should be considered separately with input from all health care professionals. Therefore, the veto of this item is in the public interest.

## **ITEM NUMBER 4**

On page 3, delete the following boxed text, "3319.58".

On page 22, delete the following boxed text, "3319.58".

On page 1356, delete the boxed text.  
On page 1357, delete the boxed text.  
On page 1358, delete the boxed text.  
On page 3240, delete the following boxed text, "3319.58".

### **Re-Testing Exemption for Teachers in Community Schools Primarily Comprised of Students with Disabilities**

This item exempts community schools comprised primarily of students with disabilities from the requirement that teachers of core subjects in poorly performing schools take all written examinations of content knowledge selected by the Ohio Department of Education. Allowing this exemption would effectively lower teaching standards for students with disabilities and set a precedent that would negatively impact our state. Therefore, the veto of this item is in the public interest.

### **ITEM NUMBER 5**

On page 15, delete the following boxed text, "743.50".  
On page 29, delete the following boxed text, "743.50".  
On page 628, delete the boxed text.  
On page 629, delete the boxed text.

### **Restrictions on Municipal Reservoir Buffer Zones**

This item would restrict municipalities' ability to use buffer zones of grass, trees or other vegetation to protect waterways, reservoirs and sources of public drinking water from contamination from the runoff of fertilizers, pesticides, pet and livestock feces, sediments and other contaminants. Such contaminants pose threats to the quality and safety of public water supplies and, in some cases, are the root cause of algal and cyanobacteria blooms responsible for severe oxygen-depletion zones that can kill aquatic life. Furthermore, pesticides can be difficult and costly to remove from public drinking water supplies, and high levels of bacteria can be an acute health risk. Striking the proper balance between the concerns of property owners bordering waterways affected by this item and the public health, environmental and taxpayer cost issues addressed by buffer zones requires a more thorough process than this item allows. Therefore, the veto of this item is in the public interest.

### **ITEM NUMBER 6**

On page 3, delete the following boxed text, "3318.36".  
On page 22, delete the following boxed text, "3318.36".  
On page 1336, delete the boxed text.

On page 1337, delete the boxed text.  
On page 1338, delete the boxed text.  
On page 1339, delete the boxed text.  
On page 1340, delete the boxed text.  
On page 1341, delete the boxed text.  
On page 1342, delete the boxed text.  
On page 3240, delete the following boxed text, "3318.36".

### **Changes to Certain School Districts' Local Share Agreements for Building Projects**

Under current law, school districts can sign a construction project agreement with the School Facilities Commission through the Expedited Local Partnership Program. By signing this agreement schools lock in their local percentage share of construction costs in exchange for the ability to build facilities before they otherwise would be eligible for funding through the Commission's Classroom Facilities Assistance Program. Under this item schools would now be able to unilaterally change the project agreements they reached with the state in order to reduce their costs. This would substantially increase state spending and reduce funds that the state has available to assist other school districts that are waiting to participate in the program. This item's changes to this program, while beneficial to select districts, increase costs to taxpayers and adversely impact other school districts. Therefore, this veto is in the public interest.

### **ITEM NUMBER 7**

On page 16, delete the following boxed text, "5103.05".  
On page 29, delete the following boxed text, "5103.05".  
On page 2163, delete the boxed text.  
On page 2164, delete the boxed text.  
On page 2165, delete the boxed text.

### **Exemption for Therapeutic Wilderness Camps from Certain Regulations**

This item creates a definition for therapeutic wilderness camps and addresses certain basic safety requirements. While under this item, these camps would be subject to requirements for criminal records checks, and the water, sanitation and fire safety rules of the Ohio Department of Health, this item places these camps into a category which does not provide appropriate and adequate oversight of the full range of activities in which these camps are involved. The safety, well-being, and success of Ohio's children is of the utmost importance and this item could create dangerous situations which challenge these goals. Therefore, a veto is in the public interest.

### ITEM NUMBER 8

On page 2699, delete the boxed text.  
On page 2700, delete the boxed text.

#### **Nursing Facilities Additional Funding**

H.B. 153 of the 129th General Assembly completed the transition from a cost-based Medicaid payment system for nursing facilities to a price-based system, a change that was initiated by the legislature in 2005 to reward efficiency. H.B. 153 established the current reimbursement methodology and related level of funding for nursing facility services. This item would modify that methodology and increase payments to nursing facilities, while no new data has been presented to justify those changes or demonstrate a need. This veto maintains current funding levels for nursing facility services and is therefore in the public interest.

### ITEM NUMBER 9

On page 17, delete the following boxed text, "5164.78".  
On page 30, delete the following boxed text, "5164.78".  
On page 2621, delete the boxed text.

#### **Higher Medicaid Rates for a Certain Clinic**

This item codifies an enhanced payment rate for one provider in the Ohio Medicaid program. This limits the ability of the Medicaid Director to effectively and efficiently manage the program for the benefit of all Ohioans, including to reduce growth in spending and to modernize the Medicaid program, therefore, the veto of this item is in the public interest.

### ITEM NUMBER 10

On page 17, delete the following boxed text, "5163.04".  
On page 30, delete the following boxed text, "5163.04".  
On page 2535, delete the boxed text.  
On page 2536, delete the boxed text.

#### **Prohibition on Extending Medicaid Coverage**

This item would prohibit the Ohio Medicaid program from covering the group identified in 42 USC 1396a(a)(10)(A)(i)(VIII) (*i.e.*, all individuals who, as of January 1, 2014, are under 65 years of age, not pregnant, not entitled to or enrolled for benefits under Medicare Parts A or B, and whose income does not exceed 133 percent of the poverty line) which federal law mandates state Medicaid programs cover. This item also foregoes federal funding to cover 100 percent of the cost of coverage for this group in state fiscal years 2014 and 2015, resulting in significant

uncompensated care costs and the imposition of those costs onto Ohio businesses and citizens in the form of higher health insurance premiums. To give the Ohio General Assembly and the executive branch maximum flexibility on this issue, this veto is in the public interest.

#### ITEM NUMBER 11

On page 3067, delete the boxed text.  
On page 3068, delete the boxed text.  
On page 3069, delete the boxed text.  
On page 3070, delete the boxed text.  
On page 3077, delete the boxed text.  
On page 3736, delete the boxed text beginning with "(A) The amendment or enactment..."

#### **Sales Tax Collection on Internet Sales with Nexus to Ohio**

This item attempts to mandatorily apply the collection of Ohio sales and use tax to transactions between out-of-state internet retailers and Ohio residents. Similar items enacted in other states have resulted in extensive litigation without necessarily producing an increase in state revenue. The federal government retains the right to regulate interstate commerce. Without the collection authority being clearly extended to the states for the purpose of out-of-state internet retailers, the legality of this item is uncertain and problematic. Congress must act before this policy change may become viable. Therefore, this veto is in the public interest.

#### ITEM NUMBER 12

On page 3038, delete the boxed text.  
On page 3736, delete the following boxed text, "49(b) and" [Note: all of division (C) of Section 803.190 is boxed because of this line-item veto and the line-item veto of the text "and (54)" in Item 16 because if both "and (54)" and "(49)(b) and" are stricken from division (C), the remainder of division (C) would contain extraneous language that by itself would have no meaning.]

#### **Aerospace Research and Development Sales Tax Exemption**

This item expands an exemption that currently applies only to capitalized equipment to include all purchases of tangible personal property used in research and development of aerospace vehicles. This item has been vetoed in the past. The problems that existed with previous language remain unresolved. Although aerospace is a valued industry in Ohio, there is no justification for such a broad expansion of this exemption. Other industries conducting research and development enjoy no similar exemption for their non-capitalized items. Further, this expansion of the exemption is contrary to the policy of maintaining a broad sales tax base with as few exemptions as possible. Therefore, the veto of this item is in the public interest.

### ITEM NUMBER 13

- On page 9, delete the following boxed text, "5725.33".
- On page 25, delete the following boxed text, "5725.33".
- On page 2933, delete the boxed text.
- On page 2934, delete the boxed text.
- On page 2935, delete the boxed text.
- On page 2936, delete the boxed text.
- On page 2937, delete the following boxed text beginning with "in the fund . . ."
- On page 3243, delete the following boxed text, "5725.33".

#### **Changes to Standards for New Markets Tax Credit**

This item eliminates the requirement that a taxpayer receive a federal New Markets tax credit in order to qualify for the state New Markets tax credit. This item also allows credit-eligible investments to be made in low-income community businesses that derive 15 percent or more of their annual revenue from the rental or sale of real property. To achieve the goals of the program it is important to link the state tax credit to the federal tax credit. This linkage provides an additional layer of accountability for project applicants, which helps ensure a return for investors and maximizes the benefit to low-income communities. Therefore, this veto is in the public interest.

### ITEM NUMBER 14

- On page 9, delete the following boxed text, "5725.34", "5726.52", "5729.17", "5747.76".
- On page 25, delete the following boxed text, "5725.34" "5726.52", "5729.17", "5747.76".
- On page 2937, delete the boxed text.
- On page 2940, delete the boxed text.
- On page 2967, delete the boxed text.
- On page 3148, delete the boxed text.
- On page 3243, delete the following boxed text, "5725. 34", "5726.52", "5729.17", "5747.76".

#### **Changes to Historic Rehabilitation Tax Credit**

This item increases the maximum Historic Rehabilitation Tax Credit that may be claimed by a taxpayer in a year from \$5 million to \$10 million. The Historic Rehabilitation Tax Credit is a part of preserving our Ohio heritage and culture. However, with the other important elements of tax reform already included in this bill, there is no need to increase credits that are given for a specific project. It is the goal of this Administration to lower the tax burden on all Ohioans instead of increasing targeted credits. Therefore, this veto is in the public interest.

## ITEM NUMBER 15

On page 3040, delete the boxed text.

On page 3736, delete the following boxed text, "and (54)" [Note: all of division (C) of Section 803.190 is boxed because of this line-item veto and the line-item veto of the text "(49)(b) and" in Item 13 because if both "and (54)" and "(49)(b) and" are stricken from division (C), the remainder of division (C) would contain extraneous language that by itself would have no meaning.]

### **Gold Coin and Metal Bullion Sales Tax Exemption**

This item codifies a sales tax exemption for metal coins and bullion used for investment purposes. The sales tax is intended to be a broad based tax, regardless of whether or not purchasers believe or hope that the items they buy will increase in value. There is no reason to provide preferential treatment to one class of items and not others that could possibly increase in value, such as art, sports cards, or antiques. Therefore, this veto is in the public interest.

## ITEM NUMBER 16

On page 3670, delete the boxed text.

### **Treasury Management System Capital Appropriation**

This item creates a new \$10 million capital appropriation item within the Administrative Building Fund. These types of expenditures are typically not authorized in the state operating budget, but rather in the state capital budget. The Administration looks forward to working with the Treasurer's office on this project when the capital budget process begins later in 2013. The veto of this item is in the public interest.

## ITEM NUMBER 17

On page 16, delete the following boxed text "3701.139".

On page 29, delete the following boxed text "3701.139".

On page 1513, delete the boxed text.

On page 1514, delete the boxed text.

On page 1515, delete the boxed text.

On page 3104, delete the boxed text.

On page 3735, delete the boxed text.

### **Mandate for Mobile Dental Health Pilot Program/Income Tax Deduction for a Certain Profession, New Medicaid and Insurance Coverage Negotiating Authorities**



This item's goal of expanding access to dental services is laudable, but allowing Ohioans in certain professions to receive a tax exemption for donations of their time creates a preferential and unfair tax benefit that would be unworkable to calculate and manage. There is no similar deduction against Ohio income for other charitable work in the Ohio Revised Code, nor is it permitted in federal law. Among other programmatic obstacles, the item requires the Director of the Ohio Department of Health to negotiate with Medicaid and private insurers for including certain services in their coverage. This expansion of the Director's authority would unnecessarily interfere with the ability of Medicaid and private insurance companies to establish their own coverage policies. The Administration strongly agrees with the goal of expanding access to dental services to underserved areas and populations and is committed to working with the General Assembly and interested parties to reach that goal, but this item in its current form is problematic. Therefore, a veto is in the public interest.

#### **ITEM NUMBER 18**

On page 3413, delete the boxed text.

#### **Earmarks on Workforce Development Funds**

This item includes two earmarks totaling \$1,000,000 in Fiscal Year 2014 and one for \$500,000 in Fiscal Year 2015. The two earmarks in Fiscal Year 2014 drain the funds available to the Office of Workforce Transformation, and the single earmark in Fiscal Year 2015 represents 50 percent of the available funds for the Office. Eliminating these funds would severely hinder the state's workforce development efforts at a time when they are beginning to show progress. It is important to preserve the resources of the Office of Workforce Transformation as it helps get Ohioans back to work. Therefore, the veto of this item is in the public interest.

#### **ITEM NUMBER 19**

On page 3691, delete the boxed text.

#### **Earmark for Commercial Truck Cargo Inspection Equipment**

This item earmarks General Revenue Fund monies in the Ohio Department of Public Safety's (ODPS) Highway Safety Fund for the purchase of equipment designed to detect illicit contraband in commercial truck cargoes. The Administration strongly supports such efforts and agrees that this kind of equipment can be useful to law enforcement, but the account balance in the Highway Safety Fund is more than adequate to acquire this equipment if ODPS leadership, in its professional judgment, deems it a priority. Therefore, the spending mandated by this item is superfluous and its veto is in the public interest.

## **ITEM NUMBER 20**

On page 172, delete the boxed text.  
On page 173, delete the boxed text.  
On page, 3410, delete the boxed text.

### **Earmark on Thomas Edison Grant Program for Certain Edison Centers**

This item amends a section of statutory law and a section of uncodified law to direct a portion of Thomas Edison grant program funding to Ohio's six Edison Centers that have been in existence at least 18 years. The language in this item also severely restricts the ability of the Development Services Agency to thoroughly use the funding within the Technology Programs and Grants line item in the most competitive and transparent manner. Further, the language places the network of Edison Technology Incubators at risk of being without funds after July 1. The Incubators offer access to services and resources to help entrepreneurs grow their businesses into self-sustaining job creators. Therefore, the veto of this item is in the public interest.

## **ITEM NUMBER 21**

On page 16, delete the following boxed text "4909.157".  
On page 29, delete the following boxed text "4909.157".  
On page 2120, delete the boxed text.  
On page 2121, delete the boxed text.

### **Gas Utility Cost Recovery for Certain Types of Clean-up Efforts**

While intending to provide the Public Utilities Commission of Ohio (PUCO) with the authority to allow natural gas utilities to recover the cost of cleaning up contaminated manufactured gas plants, this item is drafted in such a way as to potentially result in a gas utility recovering the cost of cleaning up any contaminated or obsolete site or facility. The Administration agrees that cost recovery is appropriate for natural gas utilities' manufactured gas plants and is committed to working with interested parties to create legal authority for the PUCO to provide it, but as this item does not achieve that goal without potential unintended consequences, this veto is in the public interest.

## **ITEM NUMBER 22**

On page 3517, delete the boxed text.  
On page 3525, delete the boxed text.  
On page 3729, delete the boxed text.  
On page 3730, delete the boxed text.  
On page 3741, delete the boxed text.

### **Workforce Development Program for the Economically Disadvantaged**

Under this item, the Ohio Department of Job and Family Services (ODJFS) is charged with creating a new workforce training pilot program for the economically disadvantaged. This item includes an \$8 million fund transfer from the Board of Regents Economic Development Programs Fund to ODJFS. While the goals of the program are commendable and the Administration shares a desire to strengthen workforce development, this program is duplicative of other allowable funding uses in several workforce programs across the state and not a part of the strategic plan for the Office of Workforce Transformation. Further, providing one-time funds in a limited fashion to local entities will not address the challenges this amendment seeks to fix. Therefore, this veto is in the public interest.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus this 30<sup>th</sup> day of June, Two Thousand Thirteen.

  
\_\_\_\_\_  
John R. Kasich, Governor

This will acknowledge the receipt of a copy of this veto Message of Amended Substitute House Bill 59 that was disapproved in part by Governor John R. Kasich on June 30, 2013.

\_\_\_\_\_  
Name and Title of Officer

\_\_\_\_\_  
Date and Time of Receipt