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Kasich Widens Lead in Rasmussen Poll

Republican gubernatorial candidate John Kasich has widened his lead over Gov. Ted Strickland in the Tuesday's latest Rasmussen Reports poll after holding a statistically insignificant lead for the past two months.

The telephone survey of 500 likely Ohio voters showed Kasich with 47 percent, Strickland with 42 percent, and 8 percent undecided. In April and May surveys, Kasich held a 1 percent lead. (See *The Hannah Report*, 4/2/10, 5/7/10.)

The survey said Kasich has a double-digit lead among men, while Strickland gets more support among women. It also finds that unaffiliated voters are supporting Kasich by a margin of two-to-one.

The governor is getting a 43 percent job approval rating, a drop in 5 percentage points from last month. Another 55 percent disapprove of his job performance.

A majority of voters support the repeal of the health care bill (59 percent) and passage of an immigration reform similar to Arizona's strict law (58 percent).

Rasmussen's survey of the U.S. Senate race also shows Lt. Gov. Lee Fisher and former Congressman Rob Portman tied at 43 percent. Portman holds a 14 percent lead among men, while Fisher holds a similar margin among women.

The survey was conducted on June 3 and has a margin of error of plus or minus 4.5 percent.

Driving-Records Fee Increase Unconstitutional, County Judge Says

A Franklin County common pleas judge ruled Tuesday that a \$3 fee increase the Bureau of Motor Vehicles is charging for certified copies of driving records violates the Ohio Constitution's requirement that such fee income be spent on driving-related purposes.

Lawmakers increased the fee for certified abstracts from \$2 to \$5 in the current transportation budget, HB2. Insurers and trucking companies routinely request reams of such abstracts, and the Ohio Trucking Association, the Professional Insurance Agents Association of Ohio and others sued to challenge how income from the increase is spent.

Judge Richard Frye ruled Tuesday that the income from the fee increase fits the constitutional definition of being "related to" operating or licensing vehicles on public highways, and thus the state is bound to spend it only for certain driving-related purposes.

The Department of Public Safety needs to review the ruling and consult with the attorney general's office before deciding whether to appeal, said department spokeswoman Lindsey Bohrer.

Bohrer said the fee increase was projected to bring in \$10.6 million annually; \$7.9 million has been collected from the start of the fiscal year through April, she said. The revenue is split five ways to support the Emergency Management Agency; trauma and emergency medical services; investigations; homeland security; and justice program services.

According to Frye's ruling, the state had argued against defining the fee income as "related to" highways and driving, likening it to the difference between income from license plates and income from vanity license plates, which Frye termed as being charged for "charitable, aesthetic or sentimental reasons."

"Specialty plates are not a relevant point of comparison," Frye wrote. "The driving abstracts at issue here are much more clearly essential to regular, lawful use of vehicles on public highways. Moreover, the fact that members of the plaintiff associations literally purchase millions of them each year surely differentiates them from the general citizenry who may have little or no idea what purposes certified abstracts serve," he wrote in his ruling.

"Certified abstracts are derived from records of the one-and-only government agency formally charged with administering Ohio's motor vehicle licensing and registration laws ... Those seeking to verify that only licensed drivers are put in control of '18-wheelers,' for example, have no place else to turn to authoritatively determine that status. There is a clear tie between the special interest of members of the Ohio Trucking Association in registering and operating trucks on Ohio's roadways and the controversy presented here," he wrote.

Insurers and their agents likewise have "a keen interest - for underwriting purposes if not others - in knowing about speeding tickets, past accidents and other historical information reflected in BMV records," he wrote.

Frye dismissed arguments by the state that the plaintiffs lacked proper standing to sue.

Frye also rejected a second claim by the plaintiffs that the \$5 fee is a violation of public records law because most of the information in the abstracts is available free or at cost via public records requests. The plaintiffs sought a declaratory judgment in that claim, but Frye wrote that a writ of mandamus is the proper avenue to seek relief for public records law violations.

Frye's decision states that he will soon enter a ruling declaring the increase unconstitutional and reinstating the previous \$2 fee, but wants first to hear from lawyers for both sides "given the potential implications of this decision for the state budget."

The fee-challenge lawsuit is not the only court case with the potential to disrupt a tenuous state budget. The Ohio Supreme Court is considering a case challenging the state's decision to pull more than \$200 million from the endowment of the now-dissolved Ohio Tobacco Prevention Foundation. That money was allocated in the state budget for optional and expanded Medicaid services, child welfare services and cancer screenings.

Chancellor Enlists University Trustees in Larger Goal of Construction Reform

Chancellor Eric Fingerhut and the Ohio Board of Regents (BOR) called on university trustees Tuesday to help the state overcome lingering opposition to public construction reform, an effort to reduce the \$3 billion appropriation for government-funded facilities as Ohio moves toward another dark budget cycle.

Fingerhut addressed a gathering of the University System of Ohio Trustees from Owens Community College in Findlay, where he expressed support for victims of Saturday's tornado in nearby Wood County. Speaking by videoconference, he also thanked trustees for their widespread support of the Third Frontier's funding renewal in the May primary. "I know I pushed you hard," he said, noting the high-tech partnership between the state, the business community, and the University System of Ohio is now scheduled for a \$175 billion budget in FY11.

"This represents a very significant statement of confidence and support for higher education in Ohio," Fingerhut observed.

He said the related goals of his 10-year *Strategic Plan for Higher Education* are showing "positive trends" in almost every area, including the renewed expansion of co-ops and internships. While the current budget forced cuts to professional development for college students and other high school graduates, said Fingerhut, last week's passage of SB181 (Stewart) had awarded fully half of the \$200 million in casino licensing fees to co-ops and internships and to a separate workforce development pilot in disadvantaged urban and rural areas. Cities and rural communities will split \$50 million, with \$12.5 million earmarked specifically for Appalachia.

"If the skill level of our workforce reflects the economic future of our state, we are making progress, but we still have work to do," the chancellor said.

He noted that while the rate of degree attainment is on the rise, the state must continue to work through the Ohio Skills Bank and other efforts to ensure a capable and available workforce with the targeted skill sets required by Ohio's growing industries - including high-tech.

"We may find that the programs don't even exist," the University System's workforce development director, Stacia Edwards, told Fingerhut, referring to the academic offerings of universities and two-year colleges.

Along with Edwards, who joined the chancellor's office in January, Fingerhut also introduced Vice Chancellor for Economic Advancement Byron White, who came on board in May.

Fingerhut said adding the economic advancement position to senior leadership makes perfect sense for the state.

"We are the largest employer in most communities; we are the largest real estate developer in most communities; we are the largest consumer of goods in most communities," he said.

A major example of that latter category is university construction, which consumes a major piece of the \$3 billion annual appropriation for public facilities. Fingerhut said the pilot project for three construction sites at Ohio State University, Central State University and University of Toledo will determine "whether construction reform actually bears fruit in Ohio...."

"Ohio is one of the last states in the country that still has these laws. It is now time for a change."

The chancellor noted that there are still interest groups in Ohio that oppose the 2009 recommendations of the Ohio Construction Reform Panel.

"We will ask you to serve as leaders of construction reform," he told trustees.

Fingerhut and board Chairman James Tuschman announced two upcoming conferences meant to build a common sense of mission among college and university trustees, whom the chancellor has called on to lead the push for higher education reform at the local level.

"It's clear from traveling around the state that our trustees do not see themselves as part of a collective undertaking," Tuschman added.

He announced a trustees' retreat scheduled for July 11-13. Fingerhut said an additional gathering of stakeholders involved in the successful passage of Third Frontier and Issue 1 will be scheduled for either July 28 or 29.

Senate President Not Clear on Chamber's Return

Nearly a week after a late-night session sent lawmakers home for the summer, Senate President Bill Harris (R-Ashland) did not have a specified return date for his chamber.

He said he wants members to have a chance to get back into their districts to meet with constituents after completing their spring calendar, but said they could return before the November election. One issue that could bring them back is to consent on the governor's appointments to the Casino Gaming Commission, and Harris did not rule out that they would return to vote on a redistricting amendment, but he said Sen. Jon Husted (R-Kettering) must first build a consensus. He said Husted would need more time to come up with a compromise.

Harris said he is not sure if the Casino Commission will be able to be established before the end of the biennium, estimating that it could be the first or second quarter before it is set up and running. He did not think the casinos will be willing to pay a licensing fee before that time, but he did not think it would affect programs that were earmarked for licensing money in implementing legislation last week.

Asked about criticism of the Senate for not moving on foreclosure legislation, Harris said his caucus continues to believe that foreclosure mediation is the best action. Legislation introduced by Sen. Shannon Jones (R-Springboro) did not have time to move before the break, he said.

He held out hope that SB8 (Seitz), which makes changes to Ohio election law, could be passed in the lame duck session.

On the upcoming election, Harris praised his slate of candidates and said they expect at least to hold the same number of seats, if not pick up one or two.

House GOP Vets Question Loss of Funds

Five House Republican veterans sent a letter to Gov. Ted Strickland Tuesday that questioned the loss of federal funding and the governor's commitment to veterans as a whole.

The letter was sent in reaction to a story in the *Columbus Dispatch* that reported on the loss of \$525,000 in federal grant money because the state did not hire and retain enough vocational counselors for a program to help disabled veterans re-enter the workforce as required by federal law.

The newspaper said the reduction came after Terry L. Janke, a state official who had administered the program, warned the Ohio Department of Job and Family Services that the state was at risk for losing grant money. Janke charged that state leaders, including the governor, seemed indifferent to his requests, a charge state officials denied.

The letter signed by House Republican Leader William Batchelder (R-Medina), John Adams (R-Sidney), Peter Beck (R-Mason), Danny Bulp (R-West Union) and Josh Mandel (R-Lyndhurst) said they were dismayed by the loss of federal dollars and asked Strickland how he planned to replace the funds.

"Your inaction to protect the veterans' grant has shown a complete lack of regard for the service members who have dedicated their lives to our security, our freedom and our great nation," they wrote.

They added, "As military veterans ourselves, we are available and willing to work with you to help fix this tragic incident. One of our highest priorities is to put Ohio's veterans first as we pursue lasting job creation and retention."

State Gets Stimulus Money to Train Workforce for Home Weatherization

Ohio will get \$1 million out of a wave of federal stimulus awards for 34 projects across the country designed to speed the pace of home weatherization, the U.S. Department of Energy said Tuesday.

The \$1 million grant will help expand a weatherization training program run by the Corporation for Ohio Appalachian Development in Athens. Bill Graves, community development director for the Ohio Department of Development, said the money will enable hiring of staff, streamlining of curriculum and the opening of training "hubs" in Cleveland and Fremont. The total cost of the project, according to the Department of Energy, is about \$1.25 million.

Assistant Energy Secretary Cathy Zoi said on a conference call Tuesday that the grant will help Ohio keep up what has already been a swift pace of weatherizing and retrofitting homes.

"The state has completed more than 11,000 weatherization home projects under the Recovery Act," she said.

"Ohio has been at the lead from the beginning, there only have been ... six other states that have reached this level," Zoi said.

Along with increasing consumer awareness and securing financing, workforce training is one of the key areas of focus for enabling the expansion of weatherization projects that came, Zoi said, when the federal stimulus turned a \$200 million-per-year program into a \$5 billion program.

"We need to take advantage of the stimulus money and leverage it in a way that is both fast and efficient," said Lt. Gov. Lee Fisher.

Information on applying for home weatherization assistance, as well as a list of local weatherization service providers, is available at <http://www.development.ohio.gov/community/ocs/hwap.htm>.

Brown, Voinovich Seek Money for Portsmouth Nuclear Cleanup

Ohio's two U.S. senators are lobbying their colleagues to include more than \$400 million for cleaning up a Southern Ohio nuclear facility in an appropriations bill for energy and water development projects.

U.S. Sens. Sherrod Brown (D-OH) and George Voinovich (R-OH) wrote a letter to U.S. Sen. Byron Dorgan (D-ND), chairman of the Appropriations Committee's Subcommittee on Energy and Water Development, and U.S. Sen. Bob Bennett (R-UT), the subcommittee's top Republican, requesting money for the Portsmouth Gaseous Diffusion Plant (PORTS), which shut down after a 2001 decision to move its operations to Kentucky.

Brown and Voinovich framed the project as a way both to save the federal government money by decommissioning the site to lessen upkeep costs, and to bring jobs to a hard-hit region of the state.

"This left the region without its largest employer. The devastating impact of the plant closure is still felt today," the senators wrote in their letter. "Maintaining the [U.S. Department of Energy's] accelerated cleanup schedule will put more people to work in a community that has been hard hit by unemployment. Just last month, Masco Cabinetry announced that it was closing its production facility in Waverly, OH, a few miles north of PORTS and eliminating 1,216 full-time jobs. Before the closure, the region was already facing unemployment rates in the high teens. This leaves the PORTS site cleanup and its future reuse as a major economic engine in the region.

"The FY11 request for PORTS supports ongoing cleanup efforts and increased disposal of low-level waste associated with those activities. Accelerated [decommissioning and decontamination] activities currently scheduled for PORTS are consistent with the government's long term plan of cleaning up the smaller DOE nuclear weapons sites to gain long term life cycle cost savings, and will accelerate the schedule for potential reuse of the site, such as for defense purposes or as a community development initiative. These savings can then be transferred to the larger DOE sites, saving taxpayers billions of dollars."

According to Brown's office, cleanup activities include demolishing structures, dismantling building contents and foundations and deactivating equipment. The cleanup agreement addresses this and other hazardous and industrial wastes, substances and pollutants as a subset of the entire facility, namely the plant-related structures and equipment located on DOE's property. The agreement provides for Ohio EPA's oversight of the cleanup and will govern DOE's performance of the decontamination and disposal activities at the site under the terms of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, also known as Superfund.

Environment Ohio Releases Analysis of Oil Dependence, Pending Legislation

As oil continues to pour into the Gulf of Mexico and just days before a major U.S. Senate vote on legislation that would block new rules requiring cars and light trucks to use less oil, a new analysis finds that the Senate measure would increase Ohio's dependence on oil by more than 17 million gallons in 2016, according to Environment Ohio. The binding resolution, introduced by Alaska Sen. Lisa Murkowski, also would cost Ohio residents \$42 million at the gas pump in 2016. The impacts would be even greater over time, the environmental advocate group said.

"This bailout would increase Ohio's oil dependence and give big oil millions that belong in Ohio residents' pocketbooks," said Katie Parrish, Environment Ohio's federal field organizer.

The Senate will vote Thursday on Murkowski's Congressional Review Act resolution (SJR26), which would block policies to reduce dependence on oil and other fossil fuels, including the clean cars standards finalized earlier this year, Parrish explained.

Environment Ohio's analysis examines the state-by-state impacts of blocking U.S. EPA's Model Year 2012-2016 clean car standard. Since the analysis is limited to the effect of blocking this one standard, the results underestimate the effect of the resolution on oil use and consumer costs, Environment Ohio noted.

In Ohio, the resolution would do the following:

- Increase Ohio's dependence on oil by more than 17 million gallons in 2016.
- Cost Ohio residents \$42 million at the gas pump in 2016, assuming gas costs the same as it does currently.

According to campaign finance reports, Parrish stated that Murkowski is in the Top 3 in Congress to receive money from big oil companies and to receive money from electric utilities so far this election cycle.

Groups opposed to the resolution are national security organizations and veterans, the UAW, Alliance of Automobile Manufacturers, former Republican U.S. EPA Administrator Russell Train, American Academy of Pediatrics, scientists, environmental organizations, and governors, attorneys general, top environmental officials of numerous states, and legislators including Sen. Sherrod Brown (D-OH).

"This dangerous bill would increase America's oil dependence, moving us in exactly the wrong direction," said Parrish.

On April 1, the U.S. EPA and Department of Transportation finalized a joint rule to decrease the oil consumption of Model Year 2012-2016 cars and light trucks sold in the U.S. Under Murkowski's resolution, the U.S. EPA would have to rescind its standard, forfeiting one-quarter of the joint rule's oil savings - 455 billion barrels of oil nationally over the lifetimes of those vehicles, according to the U.S. EPA.

Further, the resolution would prohibit the U.S. EPA from setting similar standards for big trucks and buses and post-2016 passenger vehicles - because the Murkowski resolution would veto EPA's scientific finding that global warming pollutants endanger human health and the environment - a prerequisite for any and all Clean Air Act rules to reduce the pollution from cars and other sources.

"An assault on the Clean Air Act would put public health at risk and reverse efforts to hold polluters accountable," said Tracy Sabetta of the National Wildlife Federation in Ohio. "Such action would prolong America's dependence on dirty fuels and hamstringing our nation's movement toward a vibrant clean energy economy."

The Congressional Review Act is a law that provides Congress expedited procedures to void agency rules. Murkowski needs just a majority vote to pass her resolution.

Brown has stated his opposition to Murkowski's resolution. Sen. George V. Voinovich (R-OH) has not stated how he will vote, according to Environment Ohio.

High Court Turns Back Hamilton County Judge, Upholds PUCO Jurisdiction

The Supreme Court of Ohio rebuffed the Hamilton County Court of Common Pleas Tuesday, finding the trial court had overstepped its bounds in claiming jurisdiction over a utility dispute involving Duke Energy Ohio. The Public Utilities Commission of Ohio (PUCO), ruled the Court, has "exclusive" jurisdiction over rate and service disputes, at least in their initial stages.

Judge Norbert Nadel of the Hamilton County court had moved to dismiss the Supreme Court appeal of Duke Energy after the company sought relief from Nadel's attempt to seize jurisdiction over a dispute between Duke Energy and real estate investment company Proposals, LLC. Proposals had filed suit in common pleas court, and afterward with PUCO, alleging that the utility had wrongfully billed the company for its tenants' electric use and had threatened to disconnect service to an address in Middletown.

Duke Energy opposed the Hamilton County complaint, asserting PUCO's jurisdiction in the matter, but Nadel refused to dismiss the case.

In its ruling Tuesday, the high court noted the "detailed statutory framework" in R.C. 4905 charging PUCO with the authority to regulate utility rates and adjudicate disagreements between providers and customers.

"R.C. 4905.26 confers exclusive jurisdiction on the commission to determine whether any charge or service rendered by a public utility 'is in any respect unjust, unreasonable ... or in violation of law,'" the Court said, citing *Kazmaier Supermarket, Inc. v. Toledo Edison Co.* (1991).

The Court turned to the specific facts of the Hamilton County dispute.

"These claims are manifestly rate- and service-related complaints, which are within the exclusive jurisdiction of the commission...." the Court said, citing the first part of a two-prong test for PUCO's authority. "Second, the acts complained of ... constituted practices normally authorized by the utility, i.e., the termination of utility service for nonpayment."

The Court concluded that although some of the real estate company's civil claims were couched in terms of tort and contract law, "they are insufficient to confer jurisdiction on the common pleas court because it is manifest that these claims are based upon violations of public utility laws, which are within the exclusive initial jurisdiction of the commission to determine."

The *per curiam* ruling was joined by Justices Evelyn Lundberg Stratton, Maureen O'Connor, Terrence O'Donnell, Judith Ann Lanzinger and Robert Cupp.

Justice Paul Pfeifer dissented, saying he would dismiss Duke Energy's appeal.

Chief Justice Eric Brown did not participate.

Governor Seeks Applicants for Hamilton County Judicial Vacancy

The Ohio Judicial Appointments Recommendation Panel is accepting applications to fill a vacant seat on the Hamilton County Municipal Court, Gov. Ted Strickland's office announced Tuesday.

The Hamilton County Municipal Court seat became vacant on March 19 because of the death of Judge Julia Stautberg.

Applicants for the Hamilton County Municipal Court position must be residents and registered electors of Hamilton County, and not yet 70 years old on the day they begin their duties, as dictated by Ohio law. In addition, they must be admitted to practice law in Ohio and have maintained their legal license for six years prior to assuming the judicial post or served as a judge of a court of record in any jurisdiction in the United States.

To continue service in the position, the appointee must run in the November 2011 general election.

To apply for any judicial vacancy, applicants must follow the guidelines set forth by the Ohio Judicial Appointments Recommendation Panel to ensure their eligibility for appointment. Applications must be submitted directly to the judicial panel and will then be distributed to the at-large and regional panel members. Additional details about OJARP and the application process can be found at www.ojarp.org.

All materials submitted by applicants for a judicial vacancy will be considered public record under Ohio law. Applicant communication with panel members must be directed to the entire panel; all attempts to contact or influence a panel member are prohibited. Applicant questions and concerns can be addressed to Kent Markus or Jeff Ruppert in the Governor's Office at 614-466-3555.

Applications for the Hamilton County Municipal Court appointment must be received by 5 p.m. on Wednesday, July 7. Candidates for the Hamilton County Municipal Court must be available to interview on Friday, July 16 in Columbus. Individual candidate times and interview locations will be determined at a later date.

Members of the regional panel that will consider applications include the following:

E.J. Wunsch - corporate secretary, Procter and Gamble.

Shanda Spurlock - associate, Greenbaum, Doll and McDonald PLLC, and member, Ohio Supreme Court Commission on Professionalism.

Brigid Kelly - political director, United Food and Commercial Workers, Local 75.

Wende C. Cross - founder, W.C. Cross & Associates LLC and former assistant United States attorney.

Patrick Hanley - founder, Law Offices of Patrick K. Hanley and former assistant United States attorney.

Janaya Trotter - associate, Ritter & Randolph LLC.

At-large panel members include the following:

Marianna Brown Bettman (chairwoman) - professor, University of Cincinnati College of Law; former judge, First District Court of Appeals.

Derric D. McDonald - patrol officer, Dayton Police Department.

Betty Davis - president, Community Concepts Inc., and member, Ohio Ethics Commission.

Joy Malek Oldfield - partner at Hill Hardman Oldfield LLC.

Gary Leppla - founder, Leppla Associates and Counselors at Law; past president, Ohio State Bar Association.

State Government Roundup

Cordray Files Amicus Brief to Protect Grieving Families during Funerals

Attorney General Richard Cordray announced Tuesday that he has sponsored an amicus brief filed in the U.S. Supreme Court seeking to protect grieving families from harassment during funerals. He is one of 48 attorneys general who signed the brief.

In the case of *Snyder v. Phelps*, the family of Lance Cpl. Matthew A. Snyder filed a lawsuit in Maryland against protesters who picketed the fallen Marine's funeral. Fred Phelps, founder of the Westboro Baptist Church of Topeka, KS, and members of the Phelps family have picketed at military funerals across the country to publicize their belief that God hates homosexuality and punishes America for its tolerance by claiming the lives of service members in Afghanistan and Iraq. Signs carried by the Phelps family at these protests have included such messages as "God Hates You," "Thank God for Dead Soldiers," "Thank God for 9/11," and "God Hates the USA."

Although the Snyder family won a judgment and compensation at the trial court, an appeals court overturned the verdict. The Supreme Court is now considering whether protection of funerals through state statutes or tort law is permissible under the U.S. Constitution's First Amendment.

"We stand behind our men and women in uniform and their loved ones. We honor those who serve and sacrifice, and when they are lost defending our freedom, their families absolutely deserve peace and privacy during their burials," said Cordray.

In a prior Sixth Circuit Court of Appeals case, the attorney general's office successfully defended a challenge by the Phelps family to an Ohio statute, Rev. Code Sec. 3767.30, which prohibits picketing within 300 feet of funerals within an hour before or after the burial service.

Gov. Ted Strickland offered support for the filing of the amicus brief. "Attorney General Cordray's action supports Ohio values and demonstrates that we stand with the families and loved ones of our service men and women," said Strickland. "They have earned the right to honor the fallen in peace and security. Just as we honor the expression of free speech, we must also honor the sacredness of funerals and the sacrifices of our soldiers and their families."

The amicus brief signed by Cordray and the 47 other attorneys general states, "It is this solemn right of privacy in one of the most sacred traditions of human civilization that the Phelps have attacked, denigrated, and violated. The Snyder family had but one opportunity to honor and mourn their fallen son, one opportunity to pay their final respects, one opportunity to bury him with solemn dignity in a time-honored tradition that far predates the founding of our country and

the adoption of our Constitution. The Snyder family should have been guaranteed their time of mourning in peace, with privacy, tranquility, and dignity. Traditions as old as humanity, much older than our Constitution, demand such privacy; the First Amendment does not abrogate all history and cultural norms to protect the Phelps' unprecedented tactics."

The text of the brief can be found online at www.OhioAttorneyGeneral.gov/FuneralProtectionsBrief.

Delisle Vows Support for Lake School District, Ottawa, Wood Counties

State Superintendent Deborah Delisle issued a statement Tuesday in response to the tornado tragedy in Wood and Ottawa counties.

"The devastation that resulted from this weekend's tornado in Wood County and Ottawa County has left the Lake Local School District in a difficult place.

"I would like to offer my condolences to Lake Local's valedictorian, Katie Kranz, and her family on the loss of their father. My heart also reaches out to the families of the other individuals who lost their lives. Their grief is felt across Ohio and our thoughts and prayers are offered to them.

"The Ohio Department of Education has been in contact with school leaders to determine how we might best assist during this difficult time. We will continue to work with local leaders to support them as they deal with this tragedy. As the summer unfolds, we will continue to monitor the situation and will do everything in our power to ensure the students of the district are able to face a new school year with uninterrupted services and continue to receive the education they deserve.

"The devastation caused by the weekend events will resonate in the counties for a long time. The Ohio Department of Education stands prepared to be a partner in the communities' recovery."

People in the News

Father of Senate Democratic Leader Receives Probation

John J. Cafaro was given probation and \$250,000 in fines by a federal judge Tuesday for failing to report a donation he made to his daughter Capri's 2004 congressional bid.

U.S. District Judge Kathleen O'Malley also sentenced John Cafaro to 150 hours of community service.

Cafaro had pleaded guilty to one count of making a false statement after he concealed a \$10,000 contribution to Capri's campaign against U.S. Rep. Steve LaTourette (R-Painseville). Federal law restricts personal contributions to \$2,000.

Capri Cafaro, who lost the election, is now the Ohio Senate Democratic leader.

Jeb Bush to Speak at ECOT Graduation

Former Florida Gov. Jeb Bush will speak at the 10th graduation ceremonies for ECOT (Electronic Classroom of Tomorrow) on Saturday, June 12 at 2:30 p.m. The graduation ceremony will be at the Schottenstein Center on the campus of Ohio State University and will also be webcast.

Since leaving the governor's office, Bush has chaired the Board of the Foundation for Florida's Future and the Foundation for Excellence in Education. He is the principal of Jeb Bush and Associates LLC.

Capital University Names Ashbrook Provost/VP for Academic Affairs

Capital University, a private institution of higher education in Columbus, announced Tuesday the appointment of longtime professor Richard M. Ashbrook, Ph.D., as provost and vice president for academic affairs - a role he has filled on an acting basis since January.

"Dr. Ashbrook is a highly regarded colleague and leader in our academic community, bringing to this position a rigorous work ethic and a distinguished reputation as an educator, scholar, academic administrator, consensus-builder, and advocate for all that enhances student learning and advances Capital's academic mission," Capital President Denvy A. Bowman said.

Ashbrook has been on the faculty of Capital since 1986 and has served the university in a variety of roles, including chair of the behavioral sciences department and acting dean of adult Learning. He has been active in faculty governance, serving as a member and past chair of the Faculty Senate and the Faculty Evaluation Committee.

In 2007, he was named interim dean of the College of Arts and Sciences, and the following year he was named dean.

He holds a Bachelor of Science degree in behavioral sciences from the University of Maryland; master's and doctoral degrees in clinical psychology from Ohio State University (OSU); and a master of fine arts degree in creative writing, also from OSU.

Ashbrook has published articles, book chapters and short stories, and frequently presents at professional conferences in the areas of psychological ethics, experiential learning, and the prediction of violence. He is a member and past chair of the Ohio Psychological Association Ethics Committee, and a past president of the Central Ohio Psychological Association.

Judicial Actions

Lucas County Attorney to Chair of Supreme Court Committee

Lucas County resident William G. Jennings will chair the Advisory Committee on the Judicial Family Network for 2010-11, the Supreme Court of Ohio has announced. He replaces Pam Harris, whose one-year term as chair is ending.

With 725 judges at all levels of the judiciary in Ohio, the 18-member advisory committee identifies the needs and concerns of judicial families and offers them educational opportunities and a supportive network. Mary Moyer, wife of the late Chief Justice Thomas J. Moyer, founded the advisory committee in 2000 after her work with the Judicial Family Institute. The institute, which is affiliated with the national Conference of Chief Justices, focuses on the challenges of public life for judicial families nationally.

Jennings, the husband of Lucas County Common Pleas Court Judge Linda J. Jennings, is serving his first term on the advisory committee after his appointment in 2008. Engaged in private practice in Lucas County, he received his law degree from the University of Toledo College of Law.

Judge Jennings began serving on the common pleas bench in May 2006. She also obtained her law degree from the University of Toledo College of Law. Before serving on the bench, she practiced criminal defense law in federal and common pleas courts.

Ohio Supreme Court Opinions

State ex rel. Duke Energy Ohio, Inc. v. Hamilton Cty. Court of Common Pleas

Prohibition - Writ sought to prevent a common pleas court and one of its judges from proceeding in a civil case arising from a public utility's threatened termination of service to a residential customer - Court and judge patently and unambiguously lack jurisdiction to proceed because PUCO has exclusive initial jurisdiction over rate- and service-related claims - Peremptory writ granted.

State v. Williams

An involuntary commitment under R.C. 2945.39 does not violate principles of equal protection or due process - Because R.C. 2945.39 is civil in nature, a person committed under the statute need not be afforded the constitutional rights afforded to a defendant in a criminal prosecution.

State ex rel. FedEx Ground Package Sys., Inc. v. Indus. Comm.

Workers' compensation - R.C. 4123.61 - Calculation of average weekly wage and full weekly wage - Claimant with multiple jobs - Industrial Commission did not abuse discretion in including wages from second job in calculation of average and full weekly wage for purposes of determining amount of temporary total disability compensation for injury on first job.

State ex rel. Extencicare Health Servs., Inc. v. Ryan

Workers' compensation - R.C. 4123.512(H) - Limited writ of *mandamus* granted - Employer entitled to reimbursement for medical-bill payments for disallowed conditions that it paid before it opted out of the reimbursement program.

Garr v. Warden, Madison Corr. Inst.

Criminal law - Sentencing - Drug offenses - R.C. 2925.03(C)(4)(g) - Major-drug-offender (MDO) specification - Offender offering controlled substance for sale in quantities qualifying for enhanced major-drug-offender penalty under R.C. 2925.03(C)(4)(g) may not receive enhanced MDO penalty when substance offered is never recovered - *State v. Chandler*, limited.

Attorney General Opinion

TO: Belmont County Prosecuting Attorney

Absent express statutory authority, individual members of a county law library resources board are not permitted to receive compensation for their service on the board.

LEGISLATIVE ACTIONS FOR 06/08/2010

SENATE ACTIONS

INTRODUCED

SB278 OUT-OF-STATE ATHLETIC TEAMS (HUSTED, J) To authorize a licensed physician from another state to provide medical services to an out-of-state athletic team and accompanying individuals when the team is participating in a sporting event in Ohio.

SB279 PROPERTY SALE GAINS-TAXATION (KEARNEY, E) To exempt from taxation gains from the sale of Ohio property used in a trade or business and held for at least two years.

SCR30 SCHOOL AWARD PROGRAM (KEARNEY, E) To encourage schools to enroll students in the Presidential Active Lifestyle Award Program.

EXECUTIVE ACTIONS FOR 06/08/2010

SIGNED BY GOVERNOR

HB50 VEHICLE REGISTRATION (DOMENICK, J) To require a motor vehicle certificate of registration to have a supplemental portion that contains all the information contained in the main portion except for the address.

HB198 MEDICAL HOME MODEL DEMONSTRATION PROJECT (LEHNER, P) To establish the Medical Home Model Demonstration Project; to provide for Choose Ohio First Scholarships to be awarded to medical students who agree to practice primary care, and to make an appropriation.

HB238 FULL DISCLOSURE OF ASSETS IN DIVORCE PROCEEDINGS (HARWOOD, S) To require the court in divorce or legal separation proceedings to require the spouses to fully disclose their assets and to include nondisclosure of assets as financial misconduct.

The House adjourned until Wednesday June 9, 2010 at 9:00 am. (Nonvoting Session)

The Senate adjourned until Thursday, June 10, 2010 at 11:00 a.m. (Nonvoting Session)