Policy Matters Ohio

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Tax & Budget

Protect essential services with public resources

It's time to cut loopholes instead of schools and hospitals

Wendy Patton
Zach Schiller

Introduction

Raise revenues to get through the recession

Taxes are how everyone comes together and does their part to keep our society running. The public revenue our taxes generate pays for teachers, health inspectors and bus drivers. State and local governments face soaring needs but dwindling tax collections as the COVID-19 epidemic pounds the economy. Federal lawmakers have sent funds, but Gov. DeWine has already cut essential services – mostly schools, colleges and hospitals - by $775 million. He has asked state contractors to take a 15% cut, imposed pay cuts on state employees and is seeking concessions from unions. Universities are hatcheting jobs, while school officials are wondering what additional costs they may have to absorb in the fall. The Akron school superintendent estimated hand sanitizer alone will cost $3 million to $4 million.[1]

Even with the reopening of activities in Ohio, the Office of Budget & Management (OBM) has projected that revenues will come in $2.43 billion lower than it anticipated earlier in Fiscal Year 2021, which began July 1; refinancing debt shaved the projected deficit to $2.1 billion. The State Controlling Board should move to use the rainy day fund to fill the gap, and federal aid needs to be utilized and increased. More is needed and Ohio cannot afford to leave the option for raising revenue off the table. Instead of cutting public services we need to get through the pandemic and recession, Ohio's elected leaders should reverse tax cuts that have benefitted the wealthiest, ensure profitable corporations and partnerships pay their fair share, and tighten the spigot on the $10 billion annual loss of state resources to tax breaks. Moreover, they should put away the war chest of expansive incentives they use when companies, seeking state subsidy, threaten to leave or play states off against each other in expensive bidding wars. This will allow Ohio to redirect these funds into education and public services crucial to the future of young and old Ohioans alike.

In the months ahead, Policy Matters Ohio will produce a series of reports outlining moves policymakers can make to ensure needed public revenue is there for programs that make communities stronger. In this report, we describe a host of measures to raise more revenue to fund services people urgently need. These changes, taken together, can make Ohio's tax structure more fair by creating a pro-people tax system that raises necessary revenues to support essential services for Ohio families, ensures more wealthy people and profitable corporations pay their fair share and reverses upside-down tax policies that weigh more heavily on communities of color.

[1] Candisky, Cathy, "Ohio's urban districts say what they need to reopen schools," The Columbus Dispatch, June 22, 2020, at https://www.dispatch.com/news/20200622/ohiorsquos-urban-districts-say-what-they-need-to-reopen-schools

Make the tax structure more fair

Ohio's tax system fails to raise enough resources to support essential services that working families need. Lack of state funds for classroom instruction makes Ohio's public colleges among the nation's most expensive;[2] recent cuts to primary and secondary education will leave some school districts with budget shortfalls, even after federal funds for addressing the pandemic are considered;[3] and even before COVID-19, inadequate state support for child care meant many families couldn't afford quality care.[4] These are services working families depend on in every community, regardless of zip code, ethnicity or race.

Lawmakers should raise revenues to get through the recession without further erosion of essential services and take the opportunity to make Ohio's upside-down tax system more fair. Today, people in the middle of the income spectrum pay virtually the same as they did under the laws of 2005, but the wealthiest 1% of Ohio tax filers pay much less: on average, $40,000 a year less. Overall, the poorest Ohioans pay nearly twice as much of their income in state and local taxes as the richest 1% do.[5] All the tax changes have only helped the wealthiest. They not only perpetuate widening income and wealth inequality, they also preserve historic and current injustices that continue to allow white communities to build wealth while denying (and often suppressing) the same level of opportunity to communities of color.[6] It's time to reverse that.

Redirect resources from special interests to essential services

During this budget crisis, Ohio's lawmakers put off a required review of tax breaks, even as numerous other committees met, held hearings and voted on bills. That included the Sunset Review Commission, which found time to meet, consider and complete their work on the abolition of certain boards and commissions. Yet the Tax Expenditure Review Committee (TERC) shirked a similar requirement to produce its biennial report by July 1, even as state revenues shrank and the need to examine tax credits, exemptions and deductions became all the more pressing. While the TERC missed its deadline two years ago, too, at least it held hearings on 15 tax breaks prior to the deadline, then met again and delivered a report in November 2018.[7] The TERC needs to assess and reduce or eliminate tax breaks that no longer make economic sense for the state of Ohio.

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[2] Patton, Wendy, "Ohio's 2020-21 Budget," Policy Matters Ohio, November 7, 2019;see section on higher education at https://bit.ly/31JgEvf

[3] Tobias, Andrew, "After state cuts and federal coronavirus funds, find out if your Ohio school district is getting more or less money," Cleveland.com, updated June 10, 2020 at https://bit.ly/38uh3mx

[4] Petrik, Will, "Ohio needs to invest in high-quality early care and education," Policy Matters Ohio, Nov. 12, 2019, at https://bit.ly/2NVxW0e and Tobias, Andrew, "After state cuts and federal coronavirus funds, find out if your Ohio school district is getting more or less money," Cleveland.com, updated June 10, 2020 at https://bit.ly/38uh3mx

[5] Patton, Wendy and Zach Schiller, "Overhaul: A plan to rebalance Ohio's income tax," Policy Matters Ohio, June 25, 2018, at https://bit.ly/2ZHiKJA.

[6] Black and Latinx Ohioans are much more likely than whites to be among the poorest fifth of the population and thus face much higher tax rates than the richest fifth. For instance, the Institute on Taxation and Economic Policy found that 27 percent of Black and 40 percent of Latinx Ohioans are in the poorest fifth, whose average total state and local taxes amounted to 12.3 percent of their income in 2018. Only 8 percent of black and 7 percent of Latinx Ohioans are in the top fifth of all earners, who averaged just a 7.7 percent tax rate.[6] Schiller, Zach, "State tax structure contributes to racial inequity," Policy Matters Ohio, January 11, 2019 at https://bit.ly/2C2AsPs; see also, Hill, Misha, Jenice Robinson, Alan Essig, Meg Wiehe, Steve Wamhoff and Carl Davis, "The illusion of race neutral tax policy," Institute on Taxation and Economic Policy, February 14, 2019 at https://itep.org/the-illusion-of-race-neutral-tax-policy/

[7] Tax Expenditure Review Committee, November 2018 Report, at https://bit.ly/3iAVbec.

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Many Ohioans are growing impatient[8] with the lavish subsidies the state and local governments award to companies that threaten to leave unless they are given tax abatements and tax breaks, or who play cities and states off against each other to see who will give them the most money for a factory or warehouse. It's a lose-lose game: Research shows the vast majority of the location decisions are made before the bidding starts.[9]

The Ohio Development Services Agency is considering clawing back $60 million in state subsidies given to General Motors for their Lordstown plant, which GM closed last year. Attorney General Yost has submitted a brief to the Tax Credit Authority outlining the case for the clawback.[10] As the pandemic and recession closed in, Gov. DeWine halted[11] the state share of the multi-million dollar incentive package offered to Sherwin-Williams as an inducement to keep its corporate headquarters in Cleveland.[12] State Representative James Hoops (R-Napoleon) has proposed widening the responsibilities of the TERC to include oversight of local tax abatements.[13] This would be useful if only the committee would meet and do a serious job of review.

Public dollars for pressing needs

Table 1 is a list of tax measures the General Assembly can take to garner just over a billion dollars to help plug the funding gap. Revenues raised through these tax measures can be used to ensure all people have access to a doctor's care in this time of illness; maintain resources necessary to stem the ongoing drug epidemic; fully fund schools to provide education during the pandemic; boost support for childcare so working parents can return to their jobs when it is safe; and support financial aid and retraining for people whose jobs don't come back after the pandemic ends.

[8] O'Brian, Dan, "Why a Struggling Rust Belt City Pinned Its Revival on a Self-Chilling Beverage Can," The Business Journal, May 11, 2020 at https://bit.ly/2NJR3u5; also Dan O'Brien, "GM Closed the Lordstown Auto Plant. Now Ohio May Force a $60 Million Repayment," The Business Journal, June 15, 2020 at https://bit.ly/2Zoo1Wk; Schiller, Zach, "With revenue about to plunge, Cleveland Council should delay vote on Sherwin-Williams incentive package," Policy Matters Ohio, March 23, 2020 at https://bit.ly/2ZkjrZ2.

[9] Upjohn Institute, "Upjohn Research," https://research.upjohn.org/incentives/

[10] Ohio Attorney General Dave Yost, "Yost demands General Motors pay back $60 million to Ohio due to broken promise to state, Mahoning Valley," News Releases, June 30, 2020, at https://www.ohioattorneygeneral.gov/Media/News-Releases/June-2020/Yost-Demands-General-Motors-Pay-Back-$60-Million-t

[11] Schiller, Zach, "Delay on Sherwin-Williams incentives is welcome," Policy Matters Ohio, April 2, 2020 at https://bit.ly/3eO1Fnv

[12] The company stayed in Northeast Ohio and was granted more than $100 million in incentive subsidy by the City and from the state's privatized economic development entity, JobsOhio, which uses proceeds of the robust state liquor profits tax. See Higgs, Robert, "Cleveland Mayor Frank Jackson approves final piece of $100-million incentive package for Sherwin-Williams headquarters," The Plain Dealer, June 25, 2020, at https://www.cleveland.com/cityhall/2020/06/cleveland-mayor-frank-jackson-approves-final-piece-of-100-million-incentive-package-for-sherwin-williams-headquarters.html. Policy Matters Ohio has called on the state to use the JobsOhio reserve fund of hundreds of millions of dollars to prevent further cuts to essential services like schools, health care and human services during the pandemic. See Patton, Wendy, "Putting JobsOhio to work for the people," Policy Matters Ohio, April 2020 at https://bit.ly/3gbDxvA

[13] House Bill 255 of the 133d General Assembly of Ohio at https://bit.ly/3eXDC5u

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Table 1		
Revenue measures that would close loopholes, modernize tax structure, pay for essential services		
Tax measures to raise revenues	Type of tax	Revenue that could be raised in Fiscal Year 2021 (millions)
Enact tax measures considered in prior budgets		
• Reduce business income deduction (LLC Loophole)	Income	$449.9
• Extend sales tax to debt collection and lobbying	Sales	$60.0
• Modernize the severance tax on oil and gas	Severance	$313.0
• End motion picture tax credit	Income	$34.8
• End tax break on private company flight simulators	Sales	$1.4
• End sales tax cap on time shares of private jets	Sales	$11.8
• End exemption on property and maintenance services for fractionally-owned private jets	Sales	<$1.0
• Suspend indexing of income-tax brackets for one year	Income	$39.7
Roll back tax breaks enacted in current budget		
• Eliminate opportunity zone tax break	Income	$5.0
• Reverse Job Retention Tax Credit expansion	CAT	$5.2
• Reverse food processing tax break expansion (cleaning & supplies)	Sales	$1.9
• Reverse historical rehabilitation tax credit expansion	CAT	$1.5
Reduce several existing tax breaks		
• Reduce distribution center tax break	CAT	$53.0
• End vendor discount for the biggest retailers	Sales	$33.3
• Limit state 529 income tax deduction to higher education uses	Income	$20.0
• Suspend sales tax holiday	Sales	$16.4
Eliminate several current tax breaks		
• Eliminate subsidy for data centers	Sales	$17.6
• Ax beauty park tax break	Sales	$2.1
• Eliminate egg producers tax break	Sales	$3.8
• Eliminate grain handler tax break	Sales	$2.6
TOTAL		**$1,073.0**

Source: Policy Matters Ohio based on various sources (see Appendix Table 1-A)

These steps are all policies that have been put forward before—whether they were approved by the House as a part of last year's budget process but didn't make it into the final budget; proposed by Govs. Bob Taft, Ted Strickland or John Kasich; approved only in the past few years and deserve to be scrapped; or previously suggested for reduction or elimination by Policy Matters Ohio. We explain each of these measures in the text that follows, including a previous estimate of how much each measure could be expected to raise.

The appendix includes a brief explanation of tax breaks. It also includes a table and explanation of sources and methodology. In short, with the pandemic, the economic downturn and the resulting reduction in tax collections, earlier estimates of the gains from these tax changes will need to be reduced. Based on the OBM's June 2020 estimates of revenues from major taxes in Fiscal Year 2021, we have adjusted the total amount of savings from these proposals.[14] Overall, they add up to almost $1.1 billion.

Tax measures considered in previous budget discussions

LLC loophole ($449.9 million): A key question during the budget debate last year was whether the General Assembly would act to rein in unneeded tax breaks, especially the business income deduction. This provision, also known as the LLC loophole and worth more than $1 billion a year, allows owners of limited liability companies, S Corporations and certain other businesses to avoid income tax on the first $250,000 in business income, and to pay a lower rate on income over that amount. It has not led to increases in the creation of new businesses or first-time hiring by new businesses, compared to the nation. Ohio's share of small businesses has continued to dwindle and our overall economic performance remains subpar.[15]

The House voted in its version of the budget bill to cut the business income deduction more than in half – from $250,000 to $100,000 for a married couple - and eliminate the special, preferential tax rate on business income over $250,000. According to analysis at the time, these measures together would have saved more than $528 million a year, while adding fairness to Ohio's tax system.[16] As noted above, the savings will be somewhat less because of the decline in the economy since then. These proposals should be enacted at this time of fiscal crisis.

Motion picture tax credit ($34.8 million): The House voted to repeal the refundable tax credit for motion picture production expenditures, which pays for 30% of eligible expenditures of film production activity.[17] Across the nation movie tax credits, used by states to compete for film production activity, do not yield enough state tax dollars to pay for themselves. Ohio's is no different: A Cleveland State University study found that between 2011 and 2015 the state spent $32 million on the tax credit but got back just $6.7 million in state and local tax revenue.[18] California and New York dominate the market for film production with gigantic tax break programs. Other states, including Ohio, get a tiny piece of the action.[19] The General Assembly should do what the House voted to do last year and repeal this tax break. Instead, the budget bill expanded eligibility to live theater productions, required companies claiming the credit to be registered in Ohio, and

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[15] Schiller, Zach, "Closing the LLC Loophole," Policy Matters Ohio, May 29, 2019, at http://bit.ly/LLCLoophole2019.
[16] Ohio Legislative Service Commission, Comparison Document, House Bill 166—133[d] General Assembly, Main Operating Budget Bill, July 23, 2019, at https://www.lsc.ohio.gov/documents/budget/133/MainOperating/FI/CompareDoc/TAX.pdf
[17] The motion picture tax credit is defined in Ohio Revised Code 122.87 at https://bit.ly/2BLano7
[18] Clouse, Candi, "Box Office Ohio: Analysis and Economic Impact of the Film Industry in Northeast Ohio and Ohio," Maxine Goodman Levin College of Urban Affairs, Cleveland State University, June 2015 at https://bit.ly/2YBmAVp
[19] Pennsylvania Independent Fiscal Office, "Film Production Tax Credit: An evaluation of Program performance," January 2019 at https://bit.ly/2Z6Wngk

eliminated the transferability of the credit, which applies against various taxes. It did not change the value of the tax break.[20]

Exclusions for private jet timeshare industry ($13.2 million): Ohio policymakers created three tax breaks for the private jet timeshare industry: a sales tax exclusion for flight simulators (training mechanisms), originally estimated to cost the state $1.6 million in 2021; a tax break for property and services to maintain and repair private jets, which costs the state something under $1 million, and an $800 cap on fractional shares of private jets, estimated to cost the state about $13.6 million in 2021 (A wealthy buyer who spends $275,000 for 1/16th of the flight time of a private jet saves thousands of dollars in sales tax). These three items, which the House voted to eliminate in its version of the current budget bill, will cost the state at least $13.2 million in 2021. (This figure has been adjusted to account for the drop in revenues projected for 2021; see appendix for details.)

Indexing ($39.7 million): Ohio law calls for state income-tax brackets to be adjusted each year based on inflation. That's why the top bracket, for instance, now begins at income over $217,400, when as originally enacted, it began at $200,000. This allows income to grow at the rate of inflation without being taxed at a higher rate. However, during an economic crisis when revenue is badly needed, suspending that requirement makes sense to save money. Indeed, that's been done numerous times in the past, including for Tax Year 2019. With inflation running at very low levels, this won't save as much as has in some past years. The Ohio Department of Taxation estimated in March that continuing to freeze the brackets this year would save $46.6 million.[21] Adjusted for the reduction in tax collections, the savings will amount to $39.7 million

Sales tax on lobbying and debt collection ($60 million): The shrinking share of Ohio's economy that is covered by the sales tax mandates a long-term evaluation of adding services to the sales-tax base. Clearly, lawmakers should add some services. These include lobbying and debt collection, which both Gov. Taft and Gov. Kasich unsuccessfully attempted. Together, that would have totaled $60 million in Fiscal Year 2017, the Kasich Administration estimated in its 2015 executive budget proposal.[22] It would also take away an undeserved state preference for these industries. Lobbyists, moreover, are particularly unlikely to move out of state if their clients have to pay sales tax. A number of states cover debt collection and lobbying under their sales or gross receipts taxes.[23]

Severance tax on oil and gas ($313 million): Gov. Kasich proposed to modernize and boost Ohio's antiquated severance tax in the executive budget for 2018-19 to 6.5% of the value of oil, unprocessed natural gas and condensate and 4.5% on processed natural gas and natural gas liquids.[24] The tax would have brought in $310 million in 2019. With the pandemic and recession, oil and natural gas production is forecast to keep falling

[20] Ohio Legislative Service Commission, Op.Cit.
[21] Email from Gary Gudmundson, Ohio Department of Taxation, June 25, 2020.
[22] Siegel, Jim and Randy Ludlow, "Legislators criticize Gov. John Kasich's proposed tax hikes," The Columbus Dispatch, Feb. 3, 2015, at https://www.dispatch.com/content/stories/local/2015/02/03/gov-john-kasich-talks-budget-businesses.html
[23] Federation of Tax Administrators, 2017 Services Taxation Survey, available at https://www.statetaxissues.org/services/2017/
[24] Patton, Wendy, "Budget Bite: Severance Tax," Policy Matters Ohio, April 19, 2017 at https://bit.ly/3gvfQyk.

nationally,[25] but production is not plummeting in the Appalachian Basin. [26] Prices are forecast to rise as inventories shrink. While uncertainty in the economy prevents an exact forecast of severance tax revenues, a simple 5% tax on all production of oil and gas at the wellhead – even assuming a 33% drop in production from 2019 - would produce tax revenue of over $300 million.[27]

Roll back tax breaks in current budget

Opportunity zone tax credit ($5 million): This program provides a new income tax break for investors in Ohio "Opportunity Zones," a federally subsidized development program. The central feature of the Opportunity Zone program is a package of capital gains tax breaks, which primarily benefits the wealthiest investors. It is targeted to low income census tracts that are developing rapidly – gentrifying – but contains no protections to ensure that companies receiving tax benefits hire current residents of the struggling communities where they are located, or that they offer decent wages or benefits. This new tax break is capped at $50 million over a biennium; $44 million had been used by May 26, 2020, according to data provided by the Ohio Department of Development.[28] While there will be little savings from this program in 2021, it should be eliminated to stop the subsidy in subsequent years.

Job Retention Tax Credit ($5.2 million): This provision lowers the amount of capital investment and eliminates state employment levels required for eligibility for this tax break, which applies against various taxes. OBM estimated this could cause loss of revenue of $5.8 million in 2021, which has been adjusted for the subsequent projected decline in the economy (see Appendix table for details). The OBM estimate cautioned: "Estimate assumes resumed issuance of JRTC credits. Revenue loss could grow considerably over time as numerous companies qualify and may be granted credits."[29]

Food processing tax break for cleaning services & supplies ($1.9 million): This expands a sales tax break for dairy production to include all cleaning expenses to manufacturers processing food for human consumption.

Historical rehabilitation tax credit extension to CAT tax ($1.5 million): This extends through the biennium a temporary provision adding the Commercial Activity Tax (CAT) to the list of taxes against which someone can claim a historic rehabilitation tax credit.

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[25] Statement of Stephen Nalley, Deputy Administrator, U.S. Energy Information Administration, U.S. Department of Energy before the Energy and Natural Resources Committee, United States Senate June 16, 2020. https://www.eia.gov/pressroom/testimonies/nalley_06162020.pdf

[26] U.S. Energy Information Administration, Drilling Productivity Report, June 15, 2020 at https://www.eia.gov/petroleum/drilling/

[27] In CY 2019, horizontal drilling in Ohio produced 24,906,277 barrels of oil and 2,575,317,587 metric cubic feet of natural gas. In calculating the revenue a 5% tax on oil and gas production might yield in 2021 in Ohio, we started with a conservative assumption that there would be a 33% drop in production from 2019 due to global recession. (2019 production is based on the Ohio Department of Natural Resources horizontal production data at https://bit.ly/2YyVu15.) We then used the Energy Information Administration's projection of prices of $47.88 per barrel of oil (Brent crude oil) and $3.08 per MMBtu for natural gas (Henry Hub) in 2021 to calculate total value of production and based our projection on 5% of the value of total production – about $313 million.

[28] E-mailed communication from Todd Walker, Ohio Development Services Agency, to Wendy Patton, Policy Matters Ohio, May 26, 2020.

[29] Ohio Office of Budget and Management, "Final HB 166 (132nd General Assembly) FY 20-FY21 budget bill," July 31, 2019.

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Reduce existing tax breaks

Drug distributors ($53 million): This CAT tax break goes to suppliers of qualified distribution centers (QDCs) that buy at least $500 million a year of goods and ship at least half of them outside Ohio.[30] They can avoid paying the CAT on products they ship from these warehouses out of state. This tax break ballooned from $26 million forgone in 2008 to an estimated $172.6 million in 2021. Then-Budget Director Tim Keen noted in 2017 that this provision is used as a tax planning device to reduce CAT liability. One way to do that would be to deliver inventory destined for Ohio customers from warehouses in neighboring states. The break reduces costs for pharmaceutical manufacturers or distributors while the state of Ohio and numerous counties and cities sue some of these same companies for their alleged role in the opioid crisis.[31] The Kasich administration unsuccessfully attempted to limit this tax break by requiring suppliers pay the tax on at least 10% of the receipts from goods they ship to these distribution centers. The General Assembly should follow through and require at least a 25% payment. Based on the Kasich administration estimate of what a 10% minimum would generate, this would generate $53 million a year.

Vendor discount ($33.3 million): Since 1981, retailers have received a tax break for collecting the sales tax. Today sales tax collection is done electronically, particularly by big retailers who are the biggest beneficiaries. Both Govs. Strickland and Kasich suggested tightening the vendor discount. Then-Tax Commissioner Joe Testa said in testimony in 2015 that Ohio's 0.75% discount "essentially functions as a profit center" for big-volume retailers like Walmart or Macy's, which got 60% of the $55 million value in 2017. Most states don't have such a break, or cap it so it only benefits small retailers. Ohio's is one of the most lavish in the nation. Lawmakers should tighten this break. The overwhelming number of retailers in Ohio are small: Restricting this benefit to those with no more than $1 million in annual sales would not affect 99% of Ohio retailers. In 2017, the most recent year for which we have data, elimination of this tier of the vendor discount would have saved the state at least $33 million.[32]

Private school tuition ($20 million): Ohio's legislature chose to conform to rules in the 2017 federal tax law around what money in "529" college savings accounts can be used for, now allowing income-tax deductions for K-12 private school tuition. The $12.4 million in revenues forgone to this tax break in 2018 was projected to almost triple to $36.5 million in 2021.[33] This benefits upper-income families who choose to send their children to private schools and will pump millions of state dollars needed for public education into private schools instead. Lawmakers should revoke the expansion of this tax break to private elementary and secondary schools.[34] The fiscal note for the legislation establishing this change estimated the cost of the expansion at $20 million a year in 2019.

Suspend the sales tax holiday ($16.4 million): Ohio's sales tax holiday allows consumers to purchase a specific set of goods without paying sales tax for a weekend each August. But this tax break is poorly targeted: It's easier for higher-income buyers to delay their

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[30] Schiller, Zach, "Tax Breaks Should Be Reined In," Policy Matters Ohio, May 4, 2017, at https://bit.ly/2ZkEU4d.
[31] Caruso, Doug and Marty Schladen, "Ohio Sues Opioid Makers, Distributors – While Giving Them Large Tax Breaks," The Columbus Dispatch, Aug. 12, 2019, at https://bit.ly/31vH83a.
[32] Patton, Wendy, "Vetting the Vendor's Discount," Policy Matters Ohio, February 23, 2018 at https://bit.ly/2Br5q3V.
[33] Ohio Department of Taxation, Tax Expenditure Report for 2020-21 at https://bit.ly/37ZQKol.
[34] Jackson, Victoria, "Testimony on SB 22 before the House Ways and Means Committee," Policy Matters Ohio, February 27, 2018 at https://bit.ly/2BadkhV.

purchases and take full advantage of the holiday than it is for poor Ohioans.[35] Such holidays are too temporary to meaningfully change the regressive nature of the state's tax system.[36] And they may not provide the local economic stimulus they're supposed to, especially since online sales are also tax-free. Moreover, some retailers may take advantage of the holiday by raising prices. This tax break at this time is costing revenue that's badly needed to pay for K-12 education and other public services. If the concern is protecting low-income families, a better approach would be to enact a sales tax credit for low income families.[37]

Eliminate some existing tax breaks

Data centers ($17.6 million): Some of the world's biggest, wealthiest companies have been winning state sales-tax breaks worth tens of millions of dollars for new data centers. In 2015, Amazon was awarded such breaks estimated at $77 million over time. Google is getting $43.5 million and Facebook $37 million, each for new data centers in New Albany.[38] These incentives exempt them from sales tax on purchases of hundreds of millions of dollars of equipment and extend over decades. Data centers are not warehouses. These facilities employ comparatively few workers: Google and Facebook promised 30 and 50 jobs, respectively. The law requires companies invest $100 million and maintain an annual payroll of just $1.5 million. Though they may seem to offer a high-tech future, they do not mean other high-tech development is likely.

Beauty park break for "qualified supply chain" ($2.1 million): This exemption from the CAT is for a very specific set of companies: those located in a suburban Columbus business park that are in the same supply chain, making "a personal care, health, or beauty product or an aromatic product, including a candle." The Ohio Manufacturers Association opposed the tax break because it gives a special interest carve-out to the CAT that specifically advantages some companies over others. This special-interest carve out should be repealed.[39]

Egg producers ($3.8 million): Ohio has a tax break for equipment sold for use in agriculture, and also has a specialized tax break for egg production. The industry has been a bad neighbor: Trillium Farms used contractors who engaged in international human trafficking[40] while Buckeye Egg Farms paid hundreds of thousands of dollars in fines for polluting Ohio waters.[41] There is no reason this industry, with its troublesome behavior, should qualify for special tax treatment compared to all other agricultural businesses. Moreover, offered the opportunity to explain why this tax break was needed

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[35] Slivka, Andrew, "Why Ohio's Sales Tax Holiday Isn't Such a Deal," Policy Matters Ohio, Aug. 5. 2015, at https://bit.ly/2DgN3zd.
[36] Grundman, Dylan, "Sales Tax Holiday: An Ineffective Alternative to Real Sales Tax Reform," Institute on Taxation & Economic Policy, July 17, 2020, at https://itep.org/sales-tax-holidays-an-ineffective-alternative-to-real-sales-tax-reform-2019/#_ftn6
[37] Patton, Wendy, "Proliferating tax breaks threaten basic services," Policy Matters Ohio, December 11, 2020 at https://bit.ly/3i7dkzO.
[38] Moss, Sebastian, "Google gets tax breaks for $600 million New Albany data center proposal," DCD News (Datacenterdynamics.com) December 11, 2018 at https://bit.ly/3dllpry and Ingles, Jo, "Behind New Albany's Facebook Data Center: Many Tax Breaks But Few Details," WOSU Radio, August 18, 2017, cited in Patton, Wendy and Zach Schiller, "Tax breaks to trim, tighten or trash," Policy Matters Ohio, March 27, 2019 at https://bit.ly/2Z8tD70.
[39] Ibid; see also, Schiller, Zach, "The Butcher, the baker, the candlestick maker…and the golf course operator," Policy Matters Ohio, June 16, 2015 at https://bit.ly/2NzIulA.
[40] Kovac, Marc, "Frontline documentary focuses on human trafficking at Ohio egg farms," The Columbus Dispatch, April 24, 2018 at https://bit.ly/2ZxvxOC.
[41] "Ohio's Largest Egg Producer Agrees To Dramatic Air Pollution Reductions From Three Giant Facilities," United States Department of Justice at https://bit.ly/3e5uVFg.

at a review hearing in 2018, no one bothered to show up. Bad neighbors shouldn't get tax breaks; this should be repealed.[42]

Grain handler tax break ($2.6 million): This is a tax break in the CAT for dealers in certain agricultural commodities: grain handlers. Ohio phased out the Corporate Franchise Tax starting in 2005 and replaced it with the CAT, a gross receipts tax. Co-ops – which handle grain - were not in the base. In 2013, lawmakers passed the tax break for commercial grain handlers as well; proponents argued that the commercial businesses needed a tax break to compete with the co-ops. In a hearing on the tax break, the legal counsel to the Ohio Manufacturers Association told the Senate Ways and Means Committee: "If for-profit grain handlers are competing with non-profit grain handlers, the answer is not to exempt the for–profits. Rather, perhaps to the extent that a non-profit entity is performing a commercial activity in competition with for-profit enterprises, receipts from that activity should be subject to the tax just like those of a for-profit entity."[43] The Ohio Association of CPAs, Ohio Bar Association, Ohio Chemical Technology Council, Ohio State Medical Association and Ohio Dental Association all joined the OMA in opposing exemptions, earmarks, or credits to the CAT.[44]

Economic development subsidies

The state gives away tax credits for economic development projects to an extent that is not well appreciated. For example, in 2018, a "Job Creation Tax Credit" worth $19.4 million (over a period of years) was given to CoverMyMeds, a company in Franklin County; in 2015 the same type of incentive, worth $17.5 million was given to Amazon for a facility in Licking County.[45] At the end of the 2020-21 biennium, $1.2 billion in eight different tax credit programs is expected to remain outstanding, to be claimed in future years. These include tax credit programs mentioned above for motion picture production, historical rehabilitation of buildings and job retention, as well as credit programs for rural businesses, research and development, and others.[46] Sometimes economic development tax credits entail significant risk, like the credit for venture capital loan loss, which guaranteed a return to investors in a public program for the riskiest type of investment. The program has failed to generate returns to cover debt service since 2017, so state resources of $14.8 million a year are now used.[47]

Especially during a time of pandemic and recession, granting of new tax breaks and other subsidies and incentives should be done rarely or suspended altogether. The state should also enforce existing commitments. That includes following through on clawbacks of incentives granted to General Motors, which closed its Lordstown assembly plant years before its promises of employment had concluded. Senator Rob Portman has also endorsed a GM payback.[48] The $70 million JobsOhio gave to development of an ethane

[42] Patton, Wendy and Schiller, Zach, "Tax breaks to trim, tighten or trash," Op.Cit.
[43] Mark Engel, Bricker & Eckler, Ohio Manufacturers Association Tax Counsel, House Bill 59 Testimony before the Ways & Means Committee of the Ohio Senate, May 22, 2013, p.7.
[44] Patton, Wendy, "Tax Break Take: The Grain Handler's Discount," Policy Matters Ohio, April 2, 2018 at https://bit.ly/3i1ZqyS.
[45] Ohio Development Services Agency, Tax Incentives (report) at https://development.ohio.gov/HB1/Default2.aspx.
[46] See "Section 757.30. Business Incentive Tax Credits" of House Bill 166 the 133d General Assembly (as enrolled) at https://bit.ly/3g9fM7h.
[47] Ohio Department of Taxation, Tax Expenditure Report for 2020-21 at https://bit.ly/3i9nKPI. (See item 3.02 Credit for venture capital loan loss); see also Patton, Wendy and Zach Schiller, "Ohio's Ballooning Tax Breaks," Policy Matters Ohio, Sept. 5, 2019, at https://bit.ly/31tilNc.
[48] Rowland, Darrel, "GOP Sen. Rob Portman favors Ohio's attempted $60 million clawback of GM incentives," The Columbus Dispatch, June 16, 2020, at https://www.dispatch.com/news/20200616/gop-sen-rob-portman-favors-ohiorsquos-attempted-60-million-clawback-of-gm-incentives

cracker facility likewise may never come to fruition.[49] Better to use state resources on what the people need.

Summary and conclusion

The above list of revenue raisers is hardly comprehensive. Lawmakers have a responsibility to create a state and economy that supports Ohioans through this crisis and sets us up for long-term prosperity. Lawmakers can meet that responsibility by enacting the tax measures listed here, largely by closing tax loopholes and modernizing outdated provisions. This is necessary to protect existing essential services and reverse injustices of the past. For example, the disparity perpetrated in Ohio's unequal system of school funding continues to cheat Black and poor students. Many Ohio schoolchildren already have lost learning time to the pandemic and likely will face additional challenges during the coming school year. The state goal of having 65% of our adult population with a college degree, certificate or credential by 2025 looks increasingly hard to achieve. And Gov. DeWine's desire to improve the health of Ohioans, and Ohio's public health programs, will be hard to pursue without significant additional investments.[50] This hurts Black Ohioans in particular, who experience an ongoing public health crisis.[51]

Instead of focusing first on budget cuts, legislators should use the rainy day fund, support more federal aid and examine these and other revenue sources to fill the state's yawning budget gap. Specifically, the TERC should convene immediately to review these and other tax breaks. Two years ago, when the first TERC met, no proponents testified in support of eight sales-tax breaks worth a total of $1.7 billion in state and local revenue a year.[52] Yet the TERC still recommended continuation without modification of all of these tax expenditures. This time, if no one shows up to say why a tax break is needed, the TERC should seek immediate repeal of it.

Today Ohio's poorest pay nearly twice the share of their income in state and local taxes as the wealthiest, on average.[53] This not only perpetuates widening income and wealth inequality but preserves historic and current injustices that continue to allow white communities to build wealth while denying the same level of opportunity to communities of color. Black and Latinx Ohioans are especially disadvantaged by this upside-down tax system. Reining in tax breaks like the LLC loophole, taxing the oil and gas industry appropriately, and repealing special-interest tax breaks would allow the state to pay for badly needed services while helping clean up this badly configured state and local tax structure. In his state of the state speech last year, Gov. DeWine said, "At this point in Ohio history, it is time to INVEST IN OHIO!"[54] That has become even more critical in the pandemic, and we must come up with the resources to do so. The proposals in this report are just a start.

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[49] "Developers Say Cracker Plant Decision Delayed Due To Virus," Gongwer-Ohio, April 30, 2020 (behind paywall); cited in Patton, Wendy, "Putting JobsOhio to work for Ohioans," Policy Matters Ohio, May 6, 2020 at https://bit.ly/2BnSjjW.
[50] Bischoff, Laura A., "Ohio near the bottom for public health spending per person. Should we spend more?" The Dayton Daily News, Apr. 12, 2020 https://bit.ly/3eMfNxF
[51] Ayres, Jasmine, "Testimony on SCR14, 'Racism as a public health crisis,' before the Senate Health, Human Services and Medicaid Committee," June 24, 2020, at https://bit.ly/2AlYOmY.
[52] Patton, Wendy, "Tax Break Review Committee Fails to Finish Job," Policy Matters Ohio, Sept. 17, 2018, at https://bit.ly/2BR7ouk
[53] Patton and Schiller, "Overhaul," op. cit.
[54]Governor Mike DeWine, State of the State, March 5, 2019, at https://bit.ly/31vreGg

Appendix

What is a tax break?

Tax breaks – sometimes known as tax expenditures – lower tax liability for a person, business or other entity. They represent revenue forgone, taxpayer dollars the state could take in but has decided not to. The State of Ohio has 134 tax expenditures representing $9.8 billion in annual revenue the state is projected to relinquish in 2021, as well as over $1 billion in revenues sacrificed by local governments that levy a sales tax on the state base.[55]

Some tax breaks help most people (like exempting sales tax on prescription drugs). Some help certain groups (exempting sales tax on prosthetic devices). Some lower costs for certain entities (exempting sales tax on purchases by schools and local governments). Two-thirds of Ohio's tax breaks go to private companies.[56]

The value of taxes forgone to tax breaks will have grown by an estimated 17.7% between 2012 and 2021, adjusted for inflation, as state spending on education, local governments and many human services has fallen. Today Ohio ranks near the bottom of states on key measures of quality of life, including health, investment in early education and affordability of college.[57] The pandemic and recession are hurting millions of Ohioans. Our government leaders can meet the needs of the people by eliminating unnecessary tax breaks, like those that favor sectors that have acted irresponsibly, or that benefit people and corporations with no need for benefits, like the one for wealthy people who buy time-shares in private jets and the sales tax break on data center equipment that subsidizes the wealthiest companies, like Amazon and Facebook.

[55] Patton, Wendy and Zach Schiller, "Ohio's Ballooning Tax Breaks," Policy Matters Ohio, Sept. 5, 2019, at https://bit.ly/31tilNc.
[56] Ibid.
[57] Patton, Wendy, "Ohio's 2020-21 Budget," Policy Matters Ohio, November 7, 2019 at http://bit.ly/OH_budget_20_21.

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Calculations of revenue

Table A-1			
Raising revenues for needed services: reducing and eliminating tax breaks, modernizing the tax structure			
A	B	C	D
Tax measures to raise revenues	Type of tax	Prior est. for 2021 (millions)	Adjusted revenues (millions)
Enact tax measures considered in prior budgets			
• Reduce the business income deduction (LLC loophole) (1)	Income	$528.0	$449.9
• Extend the sales tax to lobbying and debt collection (2)	Sales	n/a	$60.0
• Modernize the severance tax on oil and gas (3)	Severance	n/a	$313.0
• End the motion picture tax credit (4)	Income	$40.0	$34.8
• End the tax break on private company flight simulators (4)	Sales	$1.6	$1.4
• End the sales tax cap on time shares of private jets (4)	Sales	$13.6	$11.8
• End break on property & maintenance services for fractionally-owned jets (4)	Sales	<$1.0	<$1.0
• Suspend the indexing of income-tax brackets for one year (5)	Income	$46.6	$39.7
Roll back tax breaks enacted in current budget			
• Eliminate the opportunity zone tax break (6)	Income	n/a	$5.0
• Reverse the Job Retention Tax Credit expansion (7)	CAT	$5.8	$5.2
• Reverse food processing tax break expansion (cleaning & supplies) (7)	Sales	$2.2	$1.9
• Reverse the historical rehabilitation tax credit expansion (7)	CAT	$1.7	$1.5
Reduce several existing tax breaks			
• Reduce the distribution center tax break (8)	CAT	$172.6	$53.0
• End the vendor discount for the biggest retailers (9)	Sales	$59.8	$33.3
• Limit the state 529 income tax deduction to only higher education use (10)	Income	$20.0	$20.0
• Suspend the sales tax holiday (4)	Sales	$18.9	$16.4
Eliminate several current tax breaks			
• Eliminate subsidy for data centers (4)	Sales	$20.2	$17.6
• Eliminate the beauty park tax break (4)	Sales	$2.4	$2.1
• Eliminate the egg producers tax break (4)	Sales	$4.4	$3.8
• Eliminate the grain handler tax break (4)	Sales	$3.0	$2.6
Total			$1,073.0

Source: Policy Matters Ohio; see notes and sources below.

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Structure of table:

Column A refers to the various tax measures included in this report. Most are tax breaks, but several are other types of tax measures that could raise revenues. Within this column, the recommendations are grouped by type of changes. For example, in the section titled "Reduce several existing tax breaks," the recommendation is to downsize but not to entirely eliminate the tax break.

Column B identifies the type of tax against which the tax break is taken. Some tax breaks may be used to offset tax liability in several taxes (for example, the motion picture tax credit may be taken against the commercial activity tax, income tax, or financial institutions tax.) We use the tax source identified by the Ohio Department of Taxation's current tax expenditure report.

Column C gives the full amount of the tax change as identified in the original source. (See sources section, below.)

Column D gives an estimate of the amount of revenue the proposed tax measure might provide in 2021. In most cases, estimates were calculated by reducing the 2021 budget office estimates by the projected decline in the tax against which the tax break is taken, as given in the state's most recent revenue projection for 2021 (May 2020). See Ohio Office of Budget & Management, Monthly Financial Report, June 2020, at https://bit.ly/31rd0WC.

The OBM estimated that the non-auto sales tax would be down 13% from previous estimates, so for tax breaks recommended for elimination, we adjusted the 2021 sales tax break estimates downward by 13%. The CAT is projected to come in at 9.9% less than originally projected, so we reduced the 2021 tax breaks to be taken against the CAT by 9.9%. OBM estimated the individual income tax would be down 7.2%, but that includes some $700 million in revenue from the 2019 tax that will be collected in Fiscal 2021 instead of Fiscal 2020 (because the tax filing deadline was moved back to July 15). Without those revenues, 2021 income tax collections projected in the June, 2020 update would be off 14.8%, so that is the number we've used to adjust the 2021 income-tax estimates among our proposals.

Note that Column D includes several items that are calculated differently and not subject to the adjustment described in the paragraph above. For example, the indexing of tax brackets, oil and gas severance tax, and reduction of several items. The proposed reduction for the tax break for distribution centers, the tax break for the vendor discount and the opportunity zone tax credit are calculated in a different manner and not subject to the reduction described above. (See sources section, below.)

Sources

(1) Ohio Legislative Service Commission Comparison Document for House Bill 166 at https://bit.ly/3i18xQF.

(2) Siegel, Jim and Randy Ludlow, "Legislators criticize Gov. John Kasich's proposed tax hikes," The Columbus Dispatch, Feb. 3, 2015, at https://bit.ly/38ziboZ.

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(3) In CY 2019, horizontal drilling in Ohio produced 24,906,277 barrels of oil and 2,575,317,587 metric cubic feet of natural gas (Ohio Department of Natural Resources horizontal production data at https://bit.ly/2YyVu15). In calculating the revenue a 5% tax on oil and gas production might yield in 2021 in Ohio, we started with a conservative assumption that there would be a 33% drop in production from 2019 due to global recession. We then used the Energy Information Administration's projection of prices (U.S. Energy Information Administration, Drilling Productivity Report, June 15, 2020 at https://www.eia.gov/petroleum/drilling/) of $47.88 per barrel of oil (Brent crude oil) and $3.08 per MMBtu for natural gas (Henry Hub) in 2021 to calculate total value of production. Policy Matters Ohio has proposed a 5% oil and gas severance tax on all production at the wellhead, so we based our projection on 5% of the value of total production – about $313 million.

(4) Ohio Department of Taxation, Tax Expenditure Report for 2020-21 at https://bit.ly/3i9nKPl.

(5) E-mailed information from Gary Gudmundson of the Ohio Department of Taxation to Zach Schiller, Policy Matters Ohio, June 25, 2020.

(6) Data provided via e-mail from Todd Walker, Ohio Development Services Agency, to Wendy Patton of Policy Matters Ohio (May 26, 2020) indicated over $44 million of the $50 million annual allocation had been used.

(7) Scoresheet of Ohio Office of Budget and Management, "Final HB 166 (132nd General Assembly) FY 20-FY21 budget bill," July 31, 2019.

(8) The forecast of $172.6 million for the 2021 Distribution Center tax breaks is taken from the Ohio Department of Taxation Tax Expenditure Report for 2020-21, cited in source (4), above. The proposal in the report would require the beneficiaries of this tax break to pay at least 25% of the tax otherwise due. Based on the Kasich administration estimate in 2017 of what a 10% minimum would generate, this would generate $53 million a year. This figure has not been adjusted.

(9) Data from Gary Gudmundson, Ohio Department of Taxation, to Wendy Patton, January 22, 2018, cited in Patton, Wendy, "Vetting the Vendors Discount," Policy Matters Ohio, February 23, 2018 at https://bit.ly/2YCsk0M. This figure is from 2017 and is not adjusted.

(10) Based on Ohio Department of Taxation, cited in the Ohio Legislative Service Commission fiscal note for Senate Bill 22 of the 132nd General Assembly at https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA132-SB-22. This figure is for 2019 and is not adjusted.