Policy Matters Ohio

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Budget

Ohio's ballooning tax breaks

$9.8 billion with more to come

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Policy Matters Ohio

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Executive Summary

A strong, vibrant state needs well-funded schools, public services and infrastructure. For too long, Ohio lawmakers have underfunded these important things. The state spends less than half of what's needed to meet market demand for public transit. Too few struggling families get help with the high cost of child care in Ohio's low-wage economy. Public colleges and universities are unaffordable for students from families of modest means. The unconstitutional K-12 funding formula shorts poor districts of needed aid.

Tax breaks benefitting narrow special interests contribute to Ohio's lack of money to support the vital building blocks for thriving communities. In fiscal year 2021, beginning July 1, 2020, Ohio will forgo nearly $9.8 billion in state tax exemptions, credits and deductions known as tax expenditures. The value of revenue lost to tax breaks will grow by $1.3 billion in 2020-21 compared to the prior two-year budget period, and will have grown by 18% over the decade between 2012 and 2021, adjusted for inflation. Today Ohio forgoes more state resources in the general revenue fund (GRF) in tax breaks than lawmakers spend on health and human services.

Legislators considered creating, repealing or changing 27 tax break measures in House Bill 166, the budget bill for 2020-21. The Office of Budget and Management (OBM) and the Legislative Service Commission (LSC) did not quantify all the tax break measures considered, so a complete comparison of tax breaks created or expanded and those reduced or repealed is not possible. To the degree quantification is possible, it appears there is a modest gain in revenue over the biennium of about $26 million.

Nevertheless, the General Assembly let another opportunity to further reduce ineffective, outdated or otherwise unproductive tax breaks slip through its fingers. The House voted in its version of

KEY FINDINGS

- Tax expenditures – also known as tax breaks or loopholes – lower tax liability for a person, business or other entity.
- Ohio will forgo nearly $9.8 billion in tax exemptions, credits and deductions – all known as tax expenditures - in fiscal year 2021.
- Policymakers will allow tax breaks to cost $1.3 billion more in 2020-21 compared to the prior two-year budget period.
- Between 2012 and 2021, the amount of foregone revenue grew by 18%, adjusted for inflation.
- Legislators considered creating, repealing or changing 27 tax break measures in the budget bill for 2020-21.
- Had lawmakers taken action to reduce the $1 billion LLC Loophole and repeal the preferential income tax rate for those who take advantage of it, they could have saved a estimated $528 million a year.
- Bills for 24 new tax breaks await lawmakers' consideration this fall.
- Lawmakers created the Tax Expenditure Review Committee to provide better oversight of Ohio's tax breaks, but it's not properly funded or staffed.

the budget bill to slash the business income deduction, a $1 billion annual tax break known as the LLC loophole that has not produced economic results. It also approved repeal of the motion picture tax credit and a cap on sales tax paid by wealthy buyers of timeshares in jet aircraft. Together, these measures would have saved about more than $580 million in 2021, while adding fairness to Ohio's tax system. Only modest limitations relating to the LLC loophole remained in the enacted budget bill.

The General Assembly could consider 24 new tax breaks this fall. Most have not been quantified by the LSC and only some will move ahead, but collectively, they represent millions of dollars.

STRENGTHEN OVERSIGHT OF OHIO'S TAX EXPENDITURES

The Tax Expenditure Review Committee should be fully funded and appropriately staffed

The people of Ohio deserve oversight of how lawmakers spend their resources. Both chambers of the General Assembly unanimously approved the creation of a Tax Expenditure Review Committee (TERC) in 2016. The committee met just three times during the 2018-19 biennium, giving but a cursory look at 15 sales tax breaks totaling $5.7 billion in annual state and local revenues forgone and recommending they all continue without modification. In the budget bill for 2020-21, lawmakers ignored one of the two other recommendations that did come out of the committee, that it: "Consider hiring additional assistance to aid in the review process." Interest in tax expenditure review, however, is not entirely dormant. House Bill 255, introduced by Representative James Hoops and referred to the House Ways and Means Committee in May of 2019, would expand the responsibilities of the Tax Expenditure Review Committee to include local property tax exemptions.

There is a clear need for careful and regular oversight of tax expenditures. Lawmakers need to take the Tax Expenditure Review Committee more seriously and staff it appropriately. Some tax breaks clearly need to be repealed or limited. Lawmakers should seriously consider House Bill 255, a proposal to expand the tax expenditure report, and oversight of the TERC to local property tax exemptions.

I. Introduction

Ohio lawmakers underfund critical public services. Too few struggling families get help with the high cost of childcare Ohio's low-wage economy. Public colleges and universities are unaffordable for students from working class families of all races. The school funding formula remains unconstitutional 20 years after the first lawsuit, still shorting many districts of aid. Meanwhile, lawmakers spend lavishly through the state tax code on tax breaks that often benefit narrow special interests. Next fiscal year, beginning July 1, 2020, Ohio will forgo nearly $9.8 billion in state tax exemptions, credits and deductions known as tax expenditures.[1] The value of revenue lost to tax breaks will grow by $1.3 billion in 2020-21 compared to the prior two-year budget period, and will have grown by 18% over the decade between 2012 and 2021, adjusted for inflation. Today Ohio gives away more state resources in the general revenue fund (GRF) in tax breaks than lawmakers spend on health and human services.[2]

Legislators considered creating, repealing or changing 27 tax break measures in House Bill 166, the budget bill for 2020-21. The Office of Budget and Management (OBM) and the Legislative Service Commission (LSC) did not quantify all of these, so a complete comparison of tax breaks created or expanded and those reduced or repealed is not possible. To the degree quantification is possible, it appears there is a modest gain in revenue of $13 million each year million amid the $9.8 billion given away annually in tax breaks.

The General Assembly let another opportunity to reduce unproductive tax breaks slip through its fingers with the Senate rejecting three reforms approved by the House. The House voted in its version of the budget bill to cut the business income deduction, a $1 billion annual tax break known as the LLC loophole that has not produced economic results.[3] It also approved repeal of the motion picture tax credit and a cap on sales tax paid by wealthy buyers of timeshares in jet aircraft. Together, these measures would have saved more than $580 million in 2021, while adding fairness to Ohio's tax system. However, the Senate largely rejected these, passing only a modest limitation of the LLC loophole.

There's more. Lawmakers have piled on twenty-four additional tax break proposals for the General Assembly to consider this fall. Most have not been quantified by the LSC and only some will move ahead, but collectively, they represent millions more that potentially will not be available to fix the K-12 funding formula, make college more affordable, or invest in roads and bridges in our communities.

Often left out of discussions of the sheer volume of tax breaks is the multi-year tally of economic development tax credits already issued by

1 The state tax expenditure report projects a total of $9.8 billion in revenue lost to tax expenditures in 2021; see Ohio Department of Taxation, Tax Expenditure Report The State of Ohio Executive Budget for Fiscal Years 2020-2021 at https://bit.ly/2P7SG8z This does not include the many dollars the state authorizes local governments to give in property tax and other tax abatements.

2 In 2021, the Ohio Legislative Service Commission forecasts the state will spend $7.7 billion on all health and human services (see historical expenditures and revenues Table 2 - State - Source GRF, LPEF, and LGF Expenditure History) and $9.8 billion on tax expenditures. See Ohio Tax Expenditure Report for 2020-21 at https://bit.ly/2P7SG8z.

3 Schiller, Zach, "Closing the LLC Loophole," Policy Matters Ohio, May 29, 2019, at https://bit.ly/31mWxRd the state. At the end of the 2020-21 biennium, $1.2 billion in tax credits is expected to remain outstanding, to be claimed in future years.[4] 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.[5] Tax breaks that the legislature didn't approve have been quietly slipped into conference committee deliberations. This includes the rural business investment credit, costing $45 million a year.[6] Minimal oversight of tax breaks provides cover for risky use of state resources.

Some tax breaks have been in place since the 1930s. They grow over time with legislative changes and court decisions. But they are not regularly reviewed the way budget line items are. Both chambers of the General Assembly unanimously approved creating a Tax Expenditure Review Committee (TERC) in 2016. The committee met just three times in the last two years, giving but a cursory look at 15 tax breaks worth $5.7 billion a year and recommending they all continue without modification.[7] In the budget bill for 2020-21 the General Assembly ignored one of the two other recommendations that did come out of the committee, that it: "Consider hiring additional assistance to aid in the review process."[8] Interest in tax expenditure review, however, is not entirely dormant. House Bill 255, introduced by Representative James Hoops and referred to the House Ways and Means Committee, would expand the responsibilities of the Tax Expenditure Review Committee to include local property tax exemptions.[9]

Tax expenditures use public resources. They are a policy choice. Their rapid growth means less is available for basic public services, like good schools, safe bridges, and affordable college. Tax breaks often benefit the wealthy or corporations, which contributes to the upside-down structure of Ohio's state and local tax code.[10]

This report details the characteristics of Ohio's tax expenditures, with a focus on the largest and the fastest growing. It examines changes in state tax breaks over the past two years and in the state budget and looks at the proposals for new tax breaks the General Assembly will consider in the fall. Appendices include technical information on definitions, provide a table on changes in the 2020-21 budget, and give a list of pending legislation.[11]

4 Legislative Service Commission, Ohio operating budget as enrolled at https://bit.ly/2IVEPg7. See p. 2584, section 757.30. business incentive tax credits

5 "Investors to dip into tax credits once more, Gongwer News Service, July 19, 2017 at https://bit.ly/2MIOxWB; see also Martin C. Braun, "Ohio Taxpayers on the Hook as Venture Fund Can't Pay Bondholders," Bloomberg LP, March 17, 2017 at https://bloom.bg/2nv5yqt. The figure of $14.8 million is from the Ohio Department of Taxation Tax Expenditure Report for 2020-21 at https://bit.ly/30Nj7RY

6 Pilcher, James, "Controversial Ohio tax credit program back – and may pass this time," Cincinnati Enquirer, November 28, 2017 at https://bit.ly/2MjgOCR; Jen Fifield, "How Savvy Financiers Pitch Complex Investment Programs," Pew Charitable Trust, April 3, 2017 at https://bit.ly/2TLfZDC and "Enhanced Capital Launches Ohio Rural Business Growth Program, September 7, 2018 at https://bit.ly/2KHTQTG

7 Patton, Wendy and Schiller, Zach, "Weak review: Tax Expenditure Review Committee should balance tax breaks against Ohio's needs," Policy Matters, June 4, 2018 at https://bit.ly/2rcxkIf. See also https://bit.ly/2ZGwqm6.

8 Tax Expenditure Review Committee, November 2018 Report, p. 34

9 See legislation text at https://bit.ly/2YYK47N

10 In Ohio, the poorest pay almost twice the share of their income in state and local taxes as the wealthiest. See Patton, Wendy, "Ohio state and local taxes hit poor and middle-income families the hardest," Policy Matters, Oct. 17, 2018, at https://bit.ly/2RctFJY

11 This report does not include tax policy changes in 2020-21 budget other than tax breaks, such as new taxes on vaping and peer-to-peer car sharing, reduction in the base of the Financial Institutions Tax, language covering the municipal tax on profits, and others. Policy Matters wrote about major changes to the income tax, fuel taxes, and the collection of sales tax by out-of-state online retailers in an earlier report. See Schiller, Zach, "Ohio Taxes Shift Away from the Wealthy Again," Policy Matters, August 8, 2019 at https://bit.ly/2MqnyyW; Policy Matters wrote about other changes in Schiller, Zach, "Ohio Taxes Shift Away from the Wealthy Again," Policy Matters, August 8, 2019 at https://bit.ly/2MqnyyW

CHARACTERISTICS OF OHIO'S TAX EXPENDITURES

We know about the state's spending through the tax code because Ohio, like most other states and the District of Columbia, reports on tax exemptions, credits and deductions.[12] Tax expenditures, also known as tax breaks or loopholes, lower the tax liability of individuals or organizations. By 2021, the state will forgo an estimated $9.8 billion due to 134 tax expenditures.

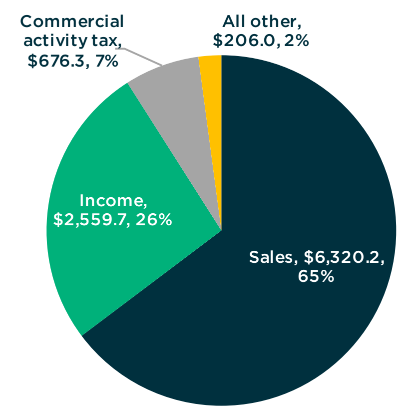
Some tax expenditures help nearly everyone (prescription drug sales tax break, personal exemption from the income tax), some help a targeted group (the manufacturing sales tax exemption, the sales tax exemption for churches and non-profits), some help certain individuals (the sales tax break on timeshares of private jets, which helps people who can afford to fly on private jets) or groups of companies (sellers of alcohol products who pay their taxes on time).

The Ohio Department of Taxation estimates Ohio's tax breaks, details them in the Tax Expenditure Report, and submits the report to the General Assembly as part of the governor's budget proposal.[13] The estimates for value of tax breaks reflect the amount of financial benefit provided to recipients, adjusted to reflect the GRF's share of the tax expenditure.[14] They do not represent the amount that the state would immediately expect to gain if they were repealed, but instead, the revenue forgone – the taxation department's estimate of revenue "spent" by the GRF because of the existence of a tax expenditure. The estimates reflect the financial benefit, adjusted to reflect the GRF's share of the tax expenditure.[15] (See Appendix 1 for detail on this point).

There are 60 tax expenditures in the sales tax, 37 in the income tax and 37 in other business, utility, finance, tobacco and alcohol taxes. Fifty-one Ohio tax breaks have a value of more than $20 million. Thirty-six tax have "minimal" value (less than $1 million). Figure 1 shows the shares and total estimated value of revenues forgone by type of tax in 2021.

Figure 1

Ohio tax expenditures grouped by type of tax exempted



Source: Policy Matters Ohio, based on the Ohio Tax Expenditure Report for 20-21

Unlike spending in the budget, lawmakers' spending through the tax code is not well scrutinized. Since its creation, the TERC's performance has been underwhelming. It continued all 15 sales tax breaks it reviewed in 2017 and 2018, representing $4.5 billion in forgone state revenue and $1.1 billion in forgone local revenue. More than half the items lacked supportive testimony and the LSC failed to explain the original purpose for all the items under consideration. Committee members recommended that the legislature "consider hiring additional assistance to aid in the review process,"[16] but the new state budget includes no funds to support it, and a new committee has not even been named.

12 Institute for Taxation and Economic Policy, State-by-State Tax Expenditure Reports, January 31, 2017 at https://bit.ly/2ZpiGRu
13 See Ohio Department of taxation, Tax Expenditure Report, Op.Cit.
14 Adjustments may be based on trends, changes in federal tax or budget laws, economic/behavioral effects, and other factors assumed by analysts.
15 See Appendix 1 for a comparison of estimates of tax breaks repealed and revenues forgone.
16 Tax Expenditure Review Committee, November 2018 Report, p. 34

TAX BREAKS BY TYPE

The report for 2010-11 categorized tax expenditures by type of beneficiary. Using that framework to analyze the 134 items in the 2020-21 tax expenditure report reveals that the business and economic development category has the most tax breaks and biggest share of revenues forgone. The smallest category is for the public sector, churches and non-profits.

Figure 2 on the next page shows the break-out of tax expenditures by who benefits: businesses, individuals and not-for-profits.

TAX BREAKS FOR BUSINESS & ECONOMIC DEVELOPMENT

Of Ohio's tax expenditures, 64% will benefit business and economic development. This category includes tax breaks for all sectors: manufacturing, retail, food preparation, agriculture, mining, communications and telecommunications, utilities and more.

The state will forgo an estimated $5.7 billion on these 86 tax breaks in 2021, 61% of the estimated total of $9.8 billion in forgone revenues.

The Ohio Department of Taxation projects tax breaks for business and economic development will grow by $694 million dollars (6.3%) in the 2020-21 biennium.

TAX BREAKS THAT BENEFIT INDIVIDUALS

The state will forgo $2.7 billion on these 41 tax breaks in 2021, 28% of total revenues forgone. These will grow by an estimated $464 billion (9.3%) over the biennium.

Fifteen of these tax breaks provide benefits in the areas of health and education. These will collectively grow by an estimated $229 million or 18.3%, pushed up by the rising cost of revenues forgone on the sale of prescription drugs and medical supplies. The expansion of just two tax breaks drive this category's rapid growth:

- The 132nd General Assembly increased an income tax exemption that allowed use of "529 tax-exempt savings accounts" and broadened it to pay for private school tuition as well as for higher education, and
- It also expanded the sales tax exemption for artificial limbs, prostheses, and medical devices to include prescription eyeglasses.

Tax expenditures that benefit individuals in ways other than in education and health will grow by an estimated $235 million (6.4%).

TAX BREAKS FOR PUBLIC SECTOR & NON-PROFITS

Five percent of the 134 tax breaks benefit the public sector and non-profits. Ohio's definition of non-profits is generous. For example, the tax break for construction materials for public and non-profit facilities can be used by private schools, performing arts, scientific and technical organizations and sports facilities.[17]

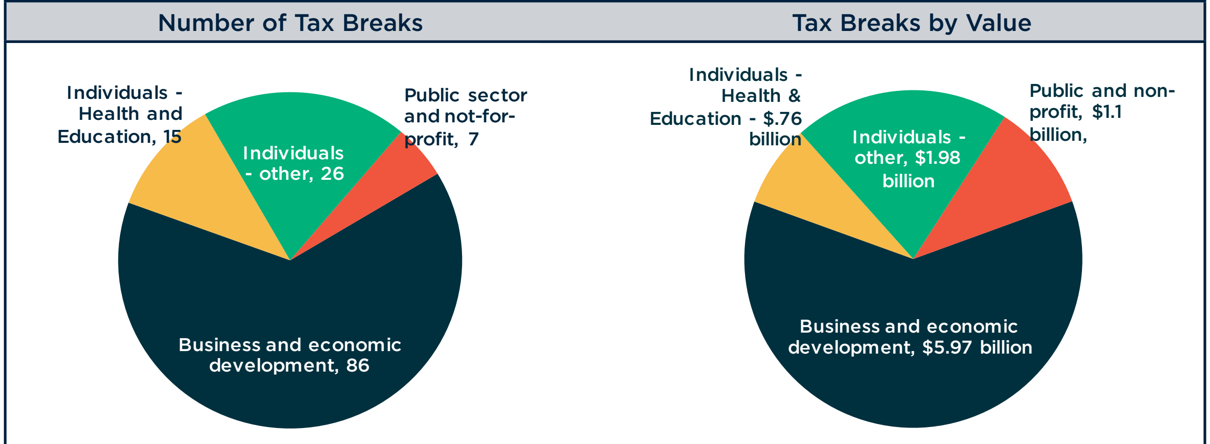
The state will forgo $1.1 billion on these seven tax breaks in 2021, 11% of total revenues forgone.

These tax breaks will grow by an estimated $139 million (6.9%) over the biennium.

17 Brainerd, Jackson and Savannah Gore, National Conference of State Legislatures, NCSL Memo to Sen. Scott Oelslager on Regional Comparison of Select Sales & Use Tax Exemptions, May 8, 2018, at https://budget.ohio.gov/Budget/operating/doc/fy-20-21/TERCReportNovember.pdf

Figure 2

Ohio tax expenditures grouped by whose taxes are reduced



Source: Policy Matters Ohio, based on the Ohio Tax Expenditure Report for 20-21

BIGGEST TAX EXPENDITURES *(BY VALUE ESTIMATED FOR 2021)*

MATERIALS AND PARTS USED IN MANUFACTURING GOODS

Sixty-four percent of the value of revenues forgone to tax expenditures benefit business and economic development. Of this, nearly half (44%) is for just one tax break: the sales tax exemption of materials and parts used in manufactured goods. The purpose of this tax break is to prevent a build-up or 'pyramiding' of sales taxes that would drive up the cost of goods manufactured or assembled in Ohio.

LLC LOOPHOLE

Although the table lists it one notch lower, the second largest tax break is the business income deduction, also known as the LLC Loophole. This tax break benefits owners of companies organized as pass-through businesses, so-called because tax liability on business earnings is not the responsibility of the firm but the owner, who pays through their personal income tax filing. It allows these owners to deduct 100% of income up to $250,000 and to pay a 3% rate on income over that, 37% lower than the state's top income tax rate that would otherwise apply. The estimate for this tax break in Table 1 does not include the significant revenue forgone by the state because of the preferential top rate on earnings over $250,000. The Ohio Department of Taxation estimated that in Tax Year 2016, the LLC loophole was valued at $1.086 billion.[18]

The LLC Loophole has contributed to the upside-down nature of Ohio's state and local tax code. The poorest tax filers – earning $24,000 or less – pay almost twice the share of income in state and local taxes as the wealthiest 1%,[19] who earn more than $496,000. During the 2020-21 state budget bill discussions, the House proposed capping it at $100,000 and eliminating the preferential top rate. The Senate did not do this, but they eliminated the preferential 3% tax rate. Governor DeWine, however, wanted neither change and the conference committee dropped these changes, making only minor adjustments (see section on tax break changes in the budget bill for more detail).

18 Schiller, Zach, "Closing the LLC Loophole," Policy Matters Ohio, May 29, 2019 at https://bit.ly/31mWxRd
19 Op. cit. Patton, October 2018

DISTRIBUTION CENTER EXEMPTION

The exemption to the Commercial Activity Tax (CAT) for purchases made by qualified distribution centers ranks as Ohio's 15th largest, but its value is much greater than shown in the Tax Expenditure Report. Under this exemption, suppliers to distribution centers that buy at least $500 million a year in goods and ship at least half of them out of Ohio can avoid paying the CAT on what they send outside the state.[20] Though the taxation department estimates the break will cost Ohio $169 million in Fiscal Year 2020 and $172.6 million in FY2021, the department says it is actually worth well over $500 million a year to those who receive it; which would make it Ohio's fifth largest tax expenditure. In its analysis of the exemption, the department reduces the value by 70% because two companies owning large pharmaceutical distribution centers could shift that much of their activity outside Ohio if the exemption was not available to their suppliers.[21] This tax break, 98.3% of which covers products of the pharmaceutical industry, has been continued despite lawsuits by the state of Ohio and numerous local governments against some of the same companies that benefit from the tax break for their role in the drug epidemic.[22] Cardinal Health, the Dublin, Ohio based distributor, was the first company to make use of the tax break. It reported that none of the product from its Groveport warehouse ships within Ohio.[23] Efforts by the Kasich administration to limit the break two years ago were unsuccessful.

Table 1 shows Ohio's biggest tax expenditures, listed by size in state revenues forgone, year over year, for 2018 through 2020.

Table 1

20 largest tax expenditures in Ohio Tax Expenditure Report (in millions)

Tax expenditure	Type	2018	2019	2020	2021
Property used primarily in manufacturing	Sales	$2,006.0	$2,097.5	$2,184.5	$2,255.4
Sales to churches & other non-profits	Sales	$609.1	$639.4	$671.3	$704.8
Ohio business income deduction (LLC Loophole)*	Income	$616.0	$638.3	$654.8	$666.3
Personal, spousal, and dependent exemption	Income	$526.2	$543.4	$562.7	$585.8
Prescription drugs and selected medical supplies	Sales	$469.1	$490.1	$512.2	$541.7
Social security and railroad retirement benefits	Income	$321.3	$340.0	$358.5	$378.6
TPP** used in agriculture	Sales	$310.3	$313.6	$317.1	$321.0
Sales of TPP** and services to electricity providers	Sales	$279.8	$285.3	$288.0	$290.5
Transportation of persons and property	Sales	$246.8	$257.4	$265.5	$271.2
Packaging and packaging equipment	Sales	$240.4	$250.7	$259.9	$266.6
Exclusion of first $1 million of taxable gross receipts	CAT***	$243.4	$248.3	$253.3	$258.4
Joint filer credit	Income	$204.8	$211.4	$216.5	$221.1
Building & constrution materials for certain structures	Sales	$209.6	$209.8	$210.1	$210.4
Value of motor vehicle trade-ins	Sales	$199.3	$197.9	$196.7	$196.4
Qualified distribution center receipts	CAT***	$170.7	$165.4	$169.0	$172.6
Resident credit for income taxed by another state	Income	$141.6	$146.6	$151.9	$157.3
TPP** and services used in telecommunications	Sales	$133.4	$139.1	$145.1	$151.3
TPP** used directly in providing public utility services	Sales	$117.7	$119.0	$120.5	$122.3
Sales to the state, its subdivisions & certain other states	Sales	$118.6	$118.6	$118.6	$118.6
Job creation credit	Various****	$101.4	$104.3	$108.0	$112.1

*Source: Policy Matters, based on the Ohio Tax Expenditure Report for 20-21. Notes: * The business income deduction is actually the second largest in the state. The dollar amount ascribed to it in the tax expenditure report does not include the hundreds of millions of additional dollars lost to the state because of the 3% preferential rate. **'TPP' stands for tangible personal property, which includes machinery, equipment, fixtures. ***'CAT' stands for Commercial Activity Tax, the gross receipts tax that replaced Ohio's corporate profits tax. **** 'Various' for the Job Creation Tax Credit stands for domestic and foreign insurance premium taxes, FIT, PAT and the individual income tax (as long as the sole proprietor or pass-through entity is not claiming the same credit against the CAT).*

20 Schiller, Zach, "Tax breaks should be reined in," Policy Matters Ohio, May 4, 2017, at https://bit.ly/2ZfVhBb

21 Ohio Taxation Department memo from Kira Steigerwald Jones, Tax Analyst, Tax Analysis Division, Feb. 23, 2018, to Gregory Siegfried, Executive Administrator, Tax Analysis & Legislation Divisions and Ernest Massie, Administrator, Tax Analysis Division.

22 See 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/31L0Kgz

23 Ohio Department of Taxation, Distribution Center Qualifying Certificate, Qualifying Year of January 1, 2019, though December 31, 2019, Cardinal Health National Logistics Center, at https://bit.ly/2N7agqC

FASTEST GROWING TAX EXPENDITURES OVER $20 MILLION

SALES TAX BREAK FOR MEDICAL EQUIPMENT

The fastest-growing tax expenditure (between the last two-year budget and the 2020-21 budget), is a sales tax exemption on medical equipment, artificial limbs and prosthetic devices. Lawmakers widened the tax break to include prescription glasses and contact lenses.[24] This will increase revenue lost by $78 million (121%) over the two-year budget period.

The name of the tax break indicates a purpose of helping people buy necessary eyeglasses. However, the break also applies to purchase of designer frames that could cost well over $1,000, a subsidy to the high-end eyeglass retailer. This kind of broad sales-tax exemption often cannot be targeted at those who really need it as doing so could violate the compact states join to make their tax structures similar in an age of online retail: The Streamlined Sales Tax Agreement.[25] Seven states have enacted a sales tax credit for low-income people, which is a better approach. Maine, for example, has a refundable sales tax credit (called the Sales Tax Fairness Credit) for low- and middle-income Maine residents. The amount is tied to family size and income and gradually phases out as income increases. For example, a married couple with two children with income below $40,000 would receive the maximum credit of $225. The credit is unavailable to families with incomes of $52,000 and above.[26]

EXPANDED 529 ACCOUNTS

The second-fastest growing tax expenditure is an income tax deduction for people who put pre-tax savings into an educational savings account called a 529 college savings account (named for the section of the federal tax code which permits a similar federal tax break). The deduction grew because Ohio doubled the size of the exemption from $2,000 a year to $4,000 a year and widened it to cover payment of private school tuition for K-12 education.[27]

Broadening the 529 college savings account to cover private school tuition benefitted higher-income residents who can afford private schools. Yet Ohio's formula funding for public schools, which educate more than 90% of the kids in the state, remains unconstitutional because of under-funding of lower-income districts. New bills in both houses could further widen Ohio's 529 exemption.

THE MOTION PICTURE TAX CREDIT

Table 2 shows the 20 fastest growing tax expenditures with a value greater than $20 million in the Ohio Tax Expenditure Report, and how fast they will grow in the 2020-21 biennium compared to the prior two-year budget period for 2018-19. The Motion Picture Tax Credit ranks third with 74% growth. Ohio sets aside $40 million a year to compete with California's spending of $330 million; Georgia's $606 million and New York's $420 million. These three states kept 75% of the film production market in the decade between 2007 and 2016 despite big changes in state tax credits.[28] Over time, 14 states have ended or defunded their film subsidy. Tourism Commissioner Chelsea Ruby explained why

24 The definition of "prosthetic device" in Ohio Revised Code (ORC) 5739.01(JJJ), referenced below, was amended by S.B. 8, 132nd General Assembly, to include corrective eyeglasses or contact lenses sold on or after July 1, 2019. This estimate includes the amended definition. This affects the estimate of value for 11 months of FY 2020, and the full FY 2021. Ohio Department of Taxation memo to Gregory Siegfried, Executive Administrator, Tax Analysis & Legislation Divisions, from Kira Steigerwald Jones, June 6, 2018.

25 Streamlined Sales Tax Agreement, Adopted Nov. 12, 2002, and Amended Through Dec. 14, 2018, Section 323, at https://bit.ly/2UVftSJ

26 Institute for Taxation and Economic Policy, "Options for a less regressive sales tax in 2018," at https://bit.ly/2P4Mhr2

27 In response to changes made in federal law by the Tax Cuts and Jobs Act of 2017, Senate Bill 22 of the 132nd General Assembly changed the definition of eligible expenses from one defined in the Ohio Revised Code to one defined by section 529 of the federal Internal Revenue Code. Expenses now include K-12 private school tuition. This is from an internal memo of the Ohio Department of Taxation to Gregory Siegfried, Executive Administrator, Tax Analysis & Legislation, from Kenneth Frey, dated June 20, 2018; provided by e-mail from the Tax Department office of communications to Policy Matters. See also, Jackson, Victoria, "Fund public schools, not savings accounts for the rich," Policy Matters, February 2018 at https://www.policymattersohio.org/files/news/529brieffeb2018.pdf

28 Independent Fiscal Office, "Pennsylvania Film Production Tax Credit: An evaluation of program performance," January 2019 at https://bit.ly/31fXAIT. Note that other states spend hundreds of millions – Georgia and Louisiana in particular – but have very small shares of the market, which is dominated by California and New York.

legislators ended the West Virginia movie tax break: "What we've seen in the last decade of these programs is a classic race to the bottom....There are certain productions that require specific locations, but a majority of productions can be done anywhere, and those productions always chase the largest credit."[29] Today, of the five states that border Ohio, three – West Virginia, Indiana and Michigan – have no movie tax credit.[30] The Ohio House voted to join them and eliminate Ohio's $40 million annual tax credit program, but the Senate did not agree. The final 2020-21 budget bill kept the film tax credit and broadened its use to theater production.[31]

Table 2

Twenty tax expenditures over $20 million with the fastest rate of growth in the 2020-21 budget period compared to the 2018-19 budget period (millions of dollars)

Tax expenditure	Type	2018	2019	2020	2021	Growth
Artificial limbs, prostheses & other medical equipment	Sales	$31.6	$33.3	$68.0	$75.4	121.0%
Deduction for educational savings programs (529s)	Income	$12.4	$28.0	$35.5	$36.5	78.2%
Motion picture tax credit	Various*	$15.8	$30.0	$40.0	$40.0	74.7%
Deduction for excess medical expenses	Income	$23.7	$26.4	$29.6	$32.8	24.6%
Drugs distributed to physicians as free samples	Sales	$28.6	$31.1	$33.7	$36.6	17.8%
Social security and railroad retirement benefits	Income	$321.3	$340.0	$358.5	$378.6	11.5%
TPP** used in mining	Sales	$90.4	$95.8	$101.1	$106.2	11.3%
Aviation repair and maintenance services and parts	Sales	$19.4	$20.5	$21.6	$22.7	11.0%
Sales by churches & non-profit organizations	Sales	$47.6	$50.1	$52.7	$55.4	10.6%
Sales to churches & non-profit organizations	Sales	$609.1	$639.4	$671.3	$704.8	10.2%
Prescription drugs and selected medical supplies	Sales	$469.1	$490.1	$512.2	$541.7	9.9%
Exemption for uniformed services retirement income	Income	$29.5	$30.9	$32.3	$33.6	9.1%
Exemption for active-duty military income	Income	$21.0	$22.0	$23.0	$23.9	9.1%
TPP** and services used in telecommunications	Sales	$133.4	$139.1	$145.1	$151.3	8.8%
Credit for increased research and development	CAT***	$35.7	$37.1	$38.7	$40.3	8.5%
Deduction for those without employer medical plan	Income	$47.3	$49.3	$51.3	$53.4	8.4%
Property used primarily in manufacturing	Sales	$2,006.0	$2,097.5	$2,184.5	$2,255.4	8.2%
Qualified TPP** used in making retail sales	Sales	$46.1	$47.9	$49.8	$51.8	8.1%
Exemption for municipal utilities, non-profit waterworks	Public Utility	$94.7	$98.4	$102.2	$106.1	7.9%
Personal, spousal, and dependent exemption	Income	$526.2	$543.4	$562.7	$585.8	7.4%

*Source: Policy Matters, based on the Ohio Tax Expenditure Report for 20-21. Notes: *'Various' includes personal income, commercial activity and financial institution taxes. ** 'TPP' stands for tangible personal property, which is machinery, equipment and fixtures. *** 'CAT' stands for Commercial Activity Tax, a gross receipts tax that replaced Ohio's corporate profits tax.*

VENTURE CAPITAL TAX CREDIT

A smaller tax credit related to the state venture capital program jumped from $0 in 2016 to $7.5 million in 2017 to $14.8 million a year in 2018. Venture capital is a risky business, and returns on the investments made by the program were not sufficient to cover the debt service on initial financing.[32] Program administrators had claimed the program would never cost taxpayers a dime,[33] but it did. In 2017, the Columbus Dispatch reported that the state venture capital fund, managed by an affiliate of Cincinnati-based Fort Washington Investment Advisors, needed about $15 million in taxpayer money to make bond payments. The article quoted Fort Washington official Steve Baker as saying: "This is the way the program is structured. No one thought it was going to be easy. No one thought there would be no risk."[34]

But risk emerged and is substantial. The $158 million principal on the program bonds, which mature in stages through 2029, is backed by $380 million in refundable tax credits.[35]

This program is less accountable than it should be because tax breaks have such limited oversight. If this were a grant program instead of a tax expenditure, legislators would have to face the public over continuing losses in a rigorous hearing process. Careful, regular oversight would improve public understanding of spending through the tax code.

29 Jarvis, Jake, "Governor Justice signs film tax credit repeal bill, The State Journal, February 5, 2018 at https://bit.ly/2WrpOud

30 Patton, Wendy, "Budget Bite: Motion Picture Tax Credit, Policy Matters Ohio, May 31, 2019 at https://bit.ly/2WoGJtj

31 How many Ohioans can afford tickets to these shows? In Columbus, October's production of "Mean Girls" lists individual tickets ranging from $39 to $114. Many shows have higher prices. https://bit.ly/2HdkySc

32 Ohio Department of Taxation memo to Gregory Siegfried, Executive Administrator, Tax Analysis & Legislation Divisions, from Ernest C. Massie, May 5, 2016

33 Glenn, Brandon, "Are the Ohio Capital Fund's days numbered?" Med City News, April 18, 2011 at https://bit.ly/31IH2lW

34 Williams, Mark, Ohio Taxpayers on the hook for venture capital fund, Columbus Dispatch, September 1, 2017 at https://bit.ly/2Tylm7W

35 Ghose, Carrie, "Ohio Capital Fund's management firm seeks 3-year extension, raise," Columbus Business First, June 19, 2019 at https://bit.ly/2Z5x10c

LARGEST GROWTH IN TAX EXPENDITURES

The exemption for products used in manufacturing is the largest tax exemption and the fastest growing in absolute amount (Table 3). Over time, individual tax breaks are changed, broadened, and extended through the courts and the General Assembly. There was a proposal to broaden the manufacturing tax exemption in the 2020-21 budget bill to include cleaning services and supplies. Another bill now under consideration would further widen this sales tax exemption to include trucks and vehicles that move finished goods.[36]

Tax expenditures are not an inherent part of a state's tax code. These are special benefits created through the political process and changed by legislatures or the courts over time. For example, while most states with a sales tax offer some kind of a manufacturing exemption, its form and effect stems from a political process that varies from state to state and over time. A memo provided to the TERC by the National Conference of State Legislatures highlighted differences in similarly-named tax exemptions among Ohio and its neighboring states.[37]

Table 3

Tax expenditures with largest absolute growth, 2020-21 vs 2018-19 (millions of dollars)

Tax Expenditure	Type	2018	2019	2020	2021	Growth
Property used primarily in manufacturing	Sales	$2,006.0	$2,097.5	$2,184.5	$2,255.4	$336.4
Sales to churches & non-profit organizations	Sales	$609.1	$639.4	$671.3	$704.8	$127.6
Prescription drugs and selected medical supplies	Sales	$469.1	$490.1	$512.2	$541.7	$94.7
Personal, spousal, and dependent exemption	Income	$526.2	$543.4	$562.7	$585.8	$78.9
Artificial limbs, prostheses & other medical equipment	Sales	$31.6	$33.3	$68.0	$75.4	$78.5
Social security and railroad retirement benefits	Income	$321.3	$340.0	$358.5	$378.6	$75.8
Ohio business income deduction (LLC Loophole)*	Income	$616.0	$638.3	$654.8	$666.3	$66.8
Packaging and packaging equipment	Sales	$240.4	$250.7	$259.9	$266.6	$35.4
Motion picture tax credit	Various**	$15.8	$30.0	$40.0	$40.0	$34.2
Transportation of persons and property	Sales	$246.8	$257.4	$265.5	$271.2	$32.5
Deduction for educational savings programs (529s)	Income	$12.4	$28.0	$35.5	$36.5	$31.6
TPP*** and services used in telecommunications	Sales	$133.4	$139.1	$145.1	$151.3	$23.9
Joint filer credit	Income	$204.8	$211.4	$216.5	$221.1	$21.4
TPP*** used in mining	Sales	$90.4	$95.8	$101.1	$106.2	$21.1
Resident credit for income taxed by another state	Income	$141.6	$146.6	$151.9	$157.3	$21.0
Exclusion of first $1 million of taxable gross receipts	CAT****	$243.4	$248.3	$253.3	$258.4	$20.0
Exemption for municipal utilities, non-profit waterworks	Public utility	$94.7	$98.4	$102.2	$106.1	$15.2
Job creation credit	Various*****	$101.4	$104.3	$108.0	$112.1	$14.4
TPP*** used in agriculture	Sales	$310.3	$313.6	$317.1	$321.0	$14.2
Sales of TPP*** and services to electricity providers	Sales	$279.8	$285.3	$288.0	$290.5	$13.4

*Source: Policy Matters, based on the Ohio Tax Expenditure Report for 20-21. * The business income deduction is actually the second largest in the state. The dollar amount ascribed to it in the tax expenditure report does not include the hundreds of millions of additional dollars forgone to the state because of the 3% preferential rate. ** 'Various' for the motion picture tax credit includes personal income, commercial activity and financial institution taxes. ***'TPP' stands for tangible personal property, which includes machinery, equipment, fixtures. ****'CAT stands for Commercial Activity Tax, Ohio's business tax on gross receipts that replaced the corporate profits tax. ***** 'Various' for the Job Creation Tax Credit includes domestic and foreign insurance premium taxes, FIT, PAT and the individual income tax (as long as the sole proprietor or pass-through entity is not claiming the same credit against the CAT).*

36 House Bill 175 of the 133 Ohio General Assembly; see https://bit.ly/2MdoUN5

37 See Brainerd, Jackson and Savannah Gore, National Conference of State Legislatures, NCSL Memo to Sen. Scott Oelslager on Regional Comparison of Select Sales & Use Tax Exemptions, May 8, 2018, https://bit.ly/2L0jvWW. See also, Patton, Wendy and Schiller, Zach, Testimony to the Tax Expenditure Review Committee, April 11, 2018 at https://bit.ly/2UmPQeO

TAX BREAKS TRIMMED AND BROADENED

In the tax expenditure report for 2018-19, there were 129 tax breaks; in the 2020-21 tax expenditure report, there were 134. New tax breaks include:

Exclusion for receipts realized by an out-of-state disaster relief business:
This exemption is taken against the Commercial Activity Tax (CAT), and is projected to result in revenues forgone of less than $1 million annually.

Deduction for qualified disaster relief work:
This is taken against the state personal income tax; with a projected cost in revenues forgone of $1 million annually.

Equipment stored, used, or consumed by an out-of-state disaster business:
This is a sales tax exemption, projected to have less than $1 million in annual impact.

Sales of computers and computer equipment to certified teachers:
This sales tax exemption is estimated at a value of $1.5 million a year.

A permanent annual three-day sales tax holiday for specified clothing, school supplies:
This is a sales tax exemption with estimated value of $18.9 million a year.

Tangible personal property used in mining:
This sales tax exemption is projected to have an impact of $106.2 million in 2021. It is an existing tax break that was grouped with agriculture until the tax expenditure report for 2020-21.

Rural Business Growth Credit:
This large economic development expenditure was slipped into legislation at the 11th hour and approved without scrutiny, even though it failed to advance in the past. This program relies on tax credits taken against the insurance tax to encourage insurance companies to invest in rural business interests in smaller counties. It was slipped into the corrections bill for the 2018-19 budget during conference committee although lawmakers had considered it several times before and not enacted it.[38] No tax credits under this program are expected to be claimed in 2020-21. There is an annual cap of $45 million once participants start making claims.

Two tax breaks were eliminated over the past two years. These were:

CREDIT FOR TAXPAYERS WITH INCOMES BELOW $10,000:
This credit was made unnecessary by the 2018-19 budget, which eliminated the two bottom income brackets.[39]

DEDUCTION FOR REAL ESTATE INVESTMENT TRUSTS:
The deduction for investments in an Ohio qualified Real Estate Investment Trust from the financial institutions tax was created as part of the phase-in of that tax in 2013. The phase-in was completed with final payouts in 2019.[40]

38 Policy Matters wrote then: "The rural growth tax credit made it into the corrections bill for the 2018-19 Ohio budget among the final amendments added in Conference Committee. Similar programs have been expensive and unproductive in other states." See Patton, Wendy, "Rural growth tax credit should be sent to the scrapheap," Policy Matters, November 28, 2017 at https://bit.ly/2yRevOW

39 Ohio Department of Taxation memo to Ernest C. Massie, Administrator, Tax Analysis Division, from Kenneth Frey, Tax Analysis & Legislation Divisions, August 6, 2018.

40 Ohio Legislative Service Commission, House Bill 510 of the 129th General Assembly, final bill analysis at https://bit.ly/34b1xcQ, cited in Schiller, Zach, "Billions in tax breaks, little accountability, Policy Matters, February 22, 2016 at https://bit.ly/2McUkU0

TAX BREAKS IN THE BUDGET BILL

Legislators considered creating, repealing or changing 27 tax breaks among the many tax policy changes in the new state budget bill (lawmakers made four separate changes to one provision – the LLC Loophole – and considered more) and two to another. They adopted expanded, extended, repealed or reduced 19 of the 27. The governor vetoed two. The section below gives brief descriptions, provides biennial totals for those that were quantified by the Office of Budget and Management (OBM) or the Legislative Service Commission (LSC). Appendix 2 shows the annual estimates: we use OBM estimates where available and LSC estimates in other cases.

Six changes mean the state will forgo more revenues: Lawmakers adopted two new state-wide tax expenditures, expanded three and extended one. Not all were quantified but those that were will cost the state an additional $48.1 million in revenues over the biennium and cost local governments, at least $800,000 (most tax breaks that impact local government were not quantified).

OPPORTUNITY ZONE TAX CREDIT:

Provides a new income tax break for investors in Ohio "Opportunity Zones," a federally subsidized development program. Policy Matters testified in opposition to this credit before the Senate Finance Committee, stating: "The Opportunity Zone program is made up of deep federal subsidy for wealthy owners of capital gains. If the state wants to invest in Opportunity Zones, it should be through direct funding to help the low-income residents of these census tracts with better services and connection to good jobs."[41] This new tax break is capped at $50 million over a biennium and will cost an estimated $29 million over the 2020-21 budget period, according to OBM.[42]

LEAD ABATEMENT TAX CREDIT:

Provides a new income tax credit to encourage rehabilitation of homes that contain toxic lead. This is capped at $10 million over a biennium. OBM estimates it will cost $4.8 million over the 2020-21 budget period.

CLEANING SERVICES & SUPPLIES FOR FOOD PROCESSING:

This expands a sales tax break for dairy production which includes cleaning expenses to all manufacturers processing food for human consumption ($3.6 million state tax break, $800,000 to counties and transit agencies over the biennium, according to the LSC comparison document).

MOTION PICTURE TAX CREDIT:

The budget bill expands eligibility to live theater productions, requires companies claiming the credit to be registered in Ohio, and eliminates the transferability of the credit, which applies against various taxes. It does not change the value of the tax break.

JOB RETENTION TAX CREDIT:

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 estimates this expansion will cost $7.3 million over the biennium. Although there are expected to be $153 million in JRTC tax credits outstanding at the end of the biennium, no new ones have been issued for the past four years. The OBM estimate cautions: "Estimate assumes resumed issuance of JRTC credits. Revenue loss could grow considerably over time as numerous companies qualify and may be granted credits."[43]

HISTORICAL REHABILITATION TAX CREDIT:

This budget extends through the biennium a temporary provision adding the Commercial Activity Tax to the list of taxes against which someone can claim a historic rehabilitation tax credit ($3.4 million over the biennium, according to OBM).

41 Patton, Wendy, Testimony to the Senate Finance Committee, June 14, 2019 at https://bit.ly/2Mqi86Z

42 Ohio Office of Budget and Management, "final HB 166 (132nd general assembly) FY 20-fy 21 budget bill as of: 7/31/2019: Tax Revenue Impact of House Bill 166 (FY 2020-2021 state operating budget) Revenue estimates by Ohio Dept of Taxation, in concert with Ohio OBM General Revenue Fund Impacts* ($ in millions), provided by OBM to Policy Matters Ohio.

43 Ibid

Three new tax breaks totaling $56.9 million were proposed by either the Ohio House or the Senate during budget deliberations, but not enacted:

EDUCATORS TAX CREDIT:

$250 personal income tax deduction for teachers' out-of-pocket costs for supplies and training ($1.1 million)

TAX CREDIT FOR EMPLOYING PEOPLE WITH A PAST FELONY CONVICTION:

A state counterpart to the federal Work Opportunity Tax Credit for someone employing an ex-felon ($5.8 million over the biennium).

MANUFACTURING SALES TAX EXEMPTION:

Sales tax exemption for supplies and janitorial services for cleaning manufacturing facilities ($50 million over the biennium).

Six provisions affecting local property taxes were enacted, as described below. These do not affect the state budget and in many cases, neither OBM nor the LSC provided estimates of fiscal impact on local government. These include:

1. Expansion of a property tax exemption of a Hamilton County convention center or arena.
2. Qualified energy project property tax exemption extended by two years, from Dec. 31, 2020 to Dec. 31, 2022.
3. Expansion of property tax exemption for arena and convention centers to less populous counties.
4. Expansion of a property tax exemption for fraternal and veterans' organizations.
5. Expansion of the term allowed for a tax increment financing agreement.
6. A property tax exemption for certain child care centers which serve a specified share of children supported by the state public childcare program.

Lawmakers repealed four tax breaks and reduced one – the business income deduction - in four different ways. As a result of the changes, state revenues forgone will be reduced by $82.6 million over the biennium and school districts will bring in an estimated $22 million more.

CAMPAIGN CONTRIBUTION TAX BREAK:

Taxpayers can no longer take a tax break for up to $50 for campaign contributions; this will bring in $6.1 million over the biennium.

PASSTHROUGH INVESTOR IN FINANCIAL INSTITUTIONS:

This tax break allowed owners of pass-through entities to claim a refundable income tax credit for their share of Financial Institutions Tax (FIT) paid (worth $20 million, according to OBM).

INVESTMENT BULLION AND COINS:

This law exempted the sale of bullion and coins from sales tax. Over time this tax break has been repealed with scandal, re-enacted, vetoed, and re-re-enacted; This bill repeals it again (worth $9.2 million over the biennium).

MOTOR RACING TEAMS:

This repealed measure exempted the sale of vehicles, parts, equipment and repair services to certain racing teams (less than $1 million a year).

BUSINESS INCOME DEDUCTION (LLC LOOPHOLE):

Lawmakers considered substantial reform of the second largest tax break but made much more modest changes, reducing its fiscal impact on the state and schools:

- Homestead exemption: Ohio's homestead exemption caps property taxes for some low-income households. Those who reduce their taxable income through the business income deduction will no longer be allowed to exclude that income to qualify. Since the state reimburses localities for this exemption, this will save the state an estimated $6.1 million starting in 2021.

- Means-tested exemptions and credits: As with the homestead exemption, business income must now be included in determining eligibility for certain credits. These include the personal exemption credit, dependent care credit, joint filer credit, senior citizen credit, lump sum distribution credit, retirement income credit, the lump sum retirement income credit and bracket of personal exemption. Estimated savings: $16.5 million over the biennium.[44]

- Lawyers and Lobbyists: The budget bill excluded income from legal services and lobbying from qualifying for the business income deduction, with an estimated impact of $25 million in 2021.

- School district income tax: Those who reduce their taxable income through the business income deduction must add it back in when calculating their school district income taxes. This will add an estimated $22 million to school districts over the biennium. This is a benefit to local school districts, not to the state.

Lawmakers considered but failed to repeal six tax breaks with an estimated value of $1.1 billion over the biennium. This includes two further reductions to the business income deduction that were considered but not adopted.

FOUR TAX EXEMPTIONS RELATED TO AVIATION:

Sales tax exemptions for aviation repair, maintenance services and repair; for sales of shares of fractionally owned aircraft; for sales of flight simulators; and for sales of property and services for maintenance and repair of fractionally owned aircraft: The House proposed to eliminate all these, but the Senate restored them and prevailed in conference committee ($75 million).

BUSINESS INCOME DEDUCTION:

Lawmakers in the House proposed reducing the maximum deduction from $250,000 to $100,000 and eliminating the preferential top rate of 3% (instead of statewide rate of 4.8%) on income over and above the cap. The Senate didn't agree with lowering the cap but did agree with eliminating the preferential rate. However, neither proposal survived the Conference Committee and went through ($1.0 billion).

MOTION PICTURE TAX CREDIT:

House members proposed eliminating this $40 million annual tax break but the Senate rejected the proposal; the tax credit was retained.

The governor vetoed two tax breaks. One was a property tax deduction to reduce taxes on homes in Hunting Valley, capping the amount property owners would pay to Orange City Schools.[45] The other provision would have kept the taxable value of land divided for residential development at its pre-division value until construction begins.

44 See Schiller, Zach, "Loopholes in a Loophole," Policy Matters Ohio, October 18, 2018 at https://bit.ly/2HkZgCX

45 Tobias, Andrew J., "Gov. Mike DeWine blocks stealthy budget change that would have helped Hunting Valley, cost Orange schools, Cleveland.com, July 19, 2019 at https://bit.ly/2Ngollr

ECONOMIC DEVELOPMENT CREDITS

Economic development tax credits are given over multiple years: The Job Creation Tax Credit, for example, offers 15-year terms. While the tax expenditure report shows projections for tax credit expenditures over the biennium, it does not quantify these long-term tax breaks. Governor John Kasich, in House Bill 49, the budget bill for 2018-19, said each budget bill must include an accounting of certain economic development tax credits outstanding at the end of each biennium. According to HB 166, the state will issue a total of $440.5 million in tax credits in 2020 and 2021. At the end of 2021, the state will have more than $1.2 billion in such tax credits outstanding. Table 4 shows the estimates provided in the budget bill.

Economic development tax credits should be monitored by the Tax Expenditure Review Committee to see if they are meeting their original purpose. The Job Retention Tax Credit, for example, was originally intended for the largest employers that anchored an entire supply chain. Lawmakers greatly loosened the break's eligibility requirements in the 2020-21 budget bill. They also eliminated the state employment requirements which connected the subsidy to the number of jobs.[46] This changes the nature of this tax credit.

Ohio policymakers should also review the recent agreement between the states of Missouri and Kansas to limit state incentives for companies relocating within the Kansas City area. Under a memorandum of understanding between the states' governors, incentives are to be limited to "net new jobs created for relocating companies."[47] Governor Mike DeWine should initiate conversations with governors in neighboring states to see if we can duplicate this agreement to end unproductive raiding that does little to improve the overall economy.

Table 4

Multi-year tax credits: Amount to be issued and claimed during 2020-21 budget, obligations outstanding at end of 2020-21 biennium (millions)

	Authorized		Issued/claimed		Outstanding
Tax Credit	FY 2020	FY 2021	FY 2020	FY 2021	2020-21 biennium
Job Creation Tax Credit*	$105.0	$105.0	$109.0	$105.0	**$700.0**
Job Retention Tax Credit	$0.0	$0.0	$44.8	$43.0	**$153.2**
Historic Preservation Tax Credit	$60.0	$60.0	$65.0	$70.0	**$175.0**
Motion Picture Tax	$40.0	$40.0	$50.0	$45.0	**$95.0**
New Markets Tax Credit	$10.0	$10.0	$9.3	$9.7	**$48.0**
R&D Loan Tax Credit	$1.5	$1.5	$2.6	$2.1	**$12.5**
InvestOhio Tax Credit	$4.0	$3.5	$2.5	$2.0	**$4.5**
Ohio Rural Business	$0.0	$0.0	$0.0	$0.0	**$45.0**
Total	**$220.5**	**$220.0**	**$283.2**	**$276.8**	**$1,233.2**

Source: Policy Matters Ohio, based on House Bill 166 of the 133d General Assembly as enrolled, page 2584.

46 Prior to passage of the 2021 budget, ORC 122.171(2) defined an "eligible business" as one that: (1) employs at least 500 full-time employees or has an annual Ohio employee payroll of at least $35 million; and (2) either operates at the project site primarily as a manufacturer and makes at least $50 million in capital investments at the site during the required time period, or is primarily engaged at the site in providing significant corporate administrative functions and makes at least $20 million in capital investments at the site during the required time period. According to the Legislative Service Commission comparison document for HB 166, changes allow manufacturers to qualify for the credit if they make a capital investment over three years equal to the lesser of $50 million or 5% of the net book value of tangible personal property used at the project at the end of that three-year period and permit manufacturers to no longer meet minimum payroll or employment requirements, but allows the tax credit agreement to contain such requirements.

47 Agreement between the state of Kansas and the state of Missouri for Promoting Economic Development in the Kansas City Region, Aug. 13. 2019. See also Hardy, Kevin, "'Sometimes common sense does prevail.' Missouri, Kansas celebrate end of border war," Kansas City Star, Aug. 13, 2019, at https://www.kansascity.com/news/business/article233725152.html

PENDING TAX BREAK LEGISLATION

As this report goes to press, up to 24 more proposals for tax expenditures may be considered further by legislators (Appendix 3). That excludes two tax expenditure bills that were considered during the spring but were fully addressed in HB 166, the Job Retention Tax Credit and the Opportunity Zone tax credit. Others include:

- **Two tax expenditure proposals** have similar bills moving in both chambers. One would help beginning farmers and could cost hundreds of millions a year. Another would expand the Ohio tax deduction to 529 savings in other state 529 savings plans.

- **Two more** – Senate Bills 39 and 95 – have been passed by the Senate and referred to committee in the House; these are likely to move forward.

- **Five tax expenditure bills** were addressed in the state budget or transportation budget although not all provisions legislators sought were included, so some aspects of these bills may continue to move. These include provisions for the educator tax credit, an increased cap in the motion picture tax credit; refundability for the earned income tax credit; permanent extension of qualified energy projects tax exemption, and the vetoed property tax exemption for subdivided but undeveloped residential land.

- **Fifteen other tax expenditure bills** are pending in the House and Senate. Of those, 14 are House bills and one is a Senate bill.

Although the fiscal impact of most of these bills has not been quantified, the few that have would amount to possibly hundreds of million more dollars in state revenues foregone each year. Details are included in Appendix 3.

Senate Bill 95 poses particular risks. It is structured to allow Ohio to move swiftly and grant 30-year tax breaks for "Mega Deals," like the faltering Foxconn deal in Wisconsin. There, the state legislature approved a $3 billion incentive package, but the factory never materialized on anything like that scale. A new report evaluates the changes that downsized the proposal from a mega deal to a big deal, and recommends renegotiating the state incentives.[48] Senate Bill 95 would make such negotiation impossible by writing such provisions into law, allowing incentives that will take revenues from state and local governments for 30 years to move forward without legislative consideration or renegotiation rights.

48 "In 2017, the State of Wisconsin agreed to provide Foxconn with almost $3 billion in state incentives, for a flat screen manufacturing facility in Southeast Wisconsin. The originally planned facility was to involve a $10 billion investment, and 13,000 jobs at reported average salary of $53,875. Since then, the project has been significantly revised. The currently-planned Foxconn facility is reported to involve a $2 billion investment, and 1,500 to 1,800 jobs. Still to be determined is exactly what incentives Wisconsin will provide for the revised facility. One possible option is to continue the original incentive offer, but scaled back to reflect the lower amount of jobs and investment." See Bartik, Timothy," Costs and Benefits of a Revised Foxconn Project," Upjohn Institute for Employment Research, July 31, 2019 at https://bit.ly/2Kwyclw

SUMMARY & CONCLUSION

Ohio's tax expenditures make up a huge use of state resources: by 2021 they will amount to nearly $10 billion, 40% of state General Revenue Fund dollars in the main operating budget. They are growing at a rapid pace: 18% since 2012, adjusted for inflation. Tax expenditures continue to grow, with six new or expanded tax breaks enacted in the 2020-21 budget bill and others that may advance in the legislature. Many tax breaks are over 30 years old. While some are useful, some may no longer be needed. Some have grown and expanded far beyond their original purpose.

The people of Ohio deserve oversight of how lawmakers spend their resources, especially for risky propositions like the venture capital tax credit, which backed a public venture capital program that failed to live up to expectations and now costs the state $14.8 million a year. Legislators slipped the $45 million Rural Jobs Tax Credit into a corrections bill during conference committee. Lawmakers removed state employment requirements from the Job Retention Tax near the end of the 2020-21 budget deliberations. Those expenditures also deserves scrutiny.

Tax breaks lined up for consideration this fall pose further risk to state revenues. Senate Bill 95 would greatly expand state incentive programs for "mega-project" deals - like the faltering Foxconn deal in Wisconsin, which could cost that state billions and has yet to create jobs. Without careful and frequent reviews of tax expenditures, legislators can easily become bullish on economic development competitiveness. Lack of transparency obscures deals that go south, as in Wisconsin.

There is a clear need for careful and regular oversight of tax expenditures. The state needs to take the Tax Expenditure Review Committee more seriously and staff it appropriately. Some tax breaks clearly need to be repealed or limited.[49] Lawmakers should support House Bill 255, a proposal to expand the tax expenditure report, and oversight of the TERC to local property tax exemptions.

Many tax expenditures benefit special interests while depriving the state of revenue. Today Ohio's poorest pay nearly twice the share of their income in state and local taxes as the wealthiest, on average.[50] Closing tax breaks like the LLC Loophole would help clean up this upside-down state and local tax structure. This would also allow the state to pay for badly needed services. Governor DeWine pledged in his campaign to expand the state's child care assistance program to more low-wage working families, instead the legislature put hundreds of millions toward more income tax cuts. The state's K-12 funding formula has been unconstitutional for 20 years because schools rely too heavily on local property wealth, causing unequal education quality between rich and poor districts. We could afford to fix the system but tax breaks and tax cuts drain the state of the necessary resources. After 15 years of neglecting many public services, many of which have been flat funded or cut, boosting investment to appropriate levels seems like an impossible job.

It is not. Rigorous oversight of state tax expenditures is a mark of fiscal responsibility. The governor pointed out that it is time to invest. A responsible, fair and balanced state tax structure is crucial to making the investments in public services that form the civic platform of our daily lives: clean water, safe roads and bridges, good schools, affordable public colleges and universities, safe and clean parks and beaches, and more.

49 Patton, Wendy and Zach Schiller, "Tax Breaks to Tighten, Trim or Trash," Policy Matters Ohio, March 27, 2019, at https://www.policymattersohio.org/research-policy/quality-ohio/revenue-budget/tax-policy/tax-breaks-to-tighten-trim-or-trash
50 Patton, Wendy and Schiller, Zach, "Overhaul: A Plan to Rebalance Ohio's Income Tax," Policy Matters Ohio, June 25, 2018 at https://bit.ly/2Q7MHwu

APPENDICES

APPENDIX 1: TAX EXPENDITURES DEFINED

Tax expenditures – also known as tax breaks or loopholes – lower tax liability for a person, business or other entity. The tax department's estimates reflect the financial benefit provided to recipients, adjusted to reflect the General Revenue Fund's share of the tax expenditure. Ohio's tax expenditures will total $9.1 billion in 2020 and $9.4 billion in 2021, not including new tax breaks passed in the 2020-21 budget, after the tax expenditure report was issued.

There are differences between reporting on a "revenue forgone" basis and on a "revenue gain from repeal" basis. Ohio's Tax Expenditure report uses a revenue forgone estimate.

- **"Revenue forgone"** estimates reflect the aggregate value of financial benefit provided to people or organizations using the tax expenditure, with an associated reduction in state GRF tax revenues. Some industries get overlapping tax benefits (a company that benefits from the manufacturing products sales tax exemption may also enjoy the sales tax break on packaging). Adjustments are made for such overlaps.

- **"Revenue gain from repeal"** reflects a number of adjustments, including cash flow lag consequences associated with an assumed tax expenditure repeal effective date; potential taxpayer behavioral responses to repeal; anticipated economic response to increased tax revenues resulting from repeal. Estimates of taxpayer non-compliance and impact of "overlapping" tax expenditures are factored into the estimates.

Ohio's tax department uses "revenue forgone" in their estimates but the memos on estimates sometimes reflect include assumptions in addition to overlap. For example, on page 5 of the tax expenditure report, the taxation department states that it only adjusts estimates when more than one tax expenditure is available to a taxpayer for the same item or activity. Yet the department significantly reduced the amount shown for the qualifying distribution center exemption based on its assumption that companies "could shift as much as 70% of their distribution center activity if the QDC exclusion were not available to their suppliers."[51]

Tax expenditures may be exemptions, deductions, or credits that reduce the taxes a taxpayer – be it a company or a person – owes.

- **A tax exemption** allows a taxpayer to not pay a certain tax. For example, purchases of not-for-profit organizations and churches are exempt from sales tax as are many items businesses purchase for use in production.

- **A tax deduction** is an expense that is subtracted from total income when calculating taxable income.

- **A tax credit** is the direct dollar-for-dollar reduction of tax liability. For example, the job creation tax credit reduces a company's commercial activity tax. The earned income tax credit reduces the individual income tax. If the tax credit is refundable, individuals or companies can receive its full amount whether or not they have any tax to offset.

51 Op. cit. Feb. 23, 2018, memo to Siegfried and Massie.

For an item to be in the tax expenditure report, it must meet all four criteria below:

- **It reduces or could reduce one of the taxes that support the state's General Revenue Fund (GRF)** of Ohio's main operating budget. Local taxes, or those that do not fund the GRF (like the motor vehicle fuel tax, horse racing tax and the severance tax) are not included in the tax expenditure report.
- **It would have been part of the defined tax base.** To be a tax expenditure, a provision must exempt from taxation a person or activity that otherwise would have been part of the tax base. The sales tax, for instance, covers tangible goods. Only specifically enumerated services are covered. Many others, such as hospital services, are not a part of the defined tax base and are not included as tax expenditures in the report.
- **It is not subject to an alternative tax.** People or activities subject to alternative taxes are not considered tax expenditures in the report. For example, insurance companies are excluded from the commercial activity tax under the Ohio Revised Code, but this is not considered a tax expenditure because insurance companies are taxed under insurance premium taxes.
- **It is subject to change by state legislative action.** The item must be an exemption, deduction or credit in the Ohio Revised Code. Anything that can be changed purely by a state constitutional amendment, a federal law change, or a federal constitutional amendment is not considered a tax expenditure in the report. Thus, the state constitution's prohibition on charging sales tax for food consumed off the premises is not included in the report.

APPENDIX 2: TAX BREAKS IN THE BUDGET BILL

Table Appendix 1

Tax expenditure actions taken in the 2020-21 budget bill
(Millions of dollars, General Revenue Fund)

	Tax expenditure item/status	FY2020	FY2021	Tax
New and expanded				
1	Lead abatement tax credit	$0.0	$4.8	Income
2	Opportunity Zone tax credit	$0.0	$29.0	Income
3	Child care center property tax exemption	n/a	n/a	Property
4	Expansion of exemption for cleaning services & supplies for dairy (extended to all food equipment)	$1.4	$2.2	Sales
5	Motion picture tax credit	n/a	n/a	Various
6	Job Retention Tax Credit	$1.5	$5.8	Various
7	Historical rehabilitation tax credit (extension of time under which it can apply to CAT)	$1.7	$1.7	CAT*
8	Expansion for Hamilton County convention center or arena exemption	n/a	n/a	Property**
9	Expansion of arena, convention center exemption for smaller counties	n/a	n/a	Property
10	Expansion of exemption for fraternal and veterans' organizations	n/a	n/a	Property
11	Extension of term for tax increment financing	n/a	n/a	Property
12	Extension of application deadline for qualified energy projects exemption	n/a	n/a	Property
Considered for enactment but not enacted				
1	Educator expenses deduction	$0.0	$1.1	Income
2	Work Opportunity Tax Credit	$2.9	$2.9	Income
3	Cleaning supplies & services for manufactors	$21.3	$28.7	Sales
Repealed or reduced				
1	Campaign contribution tax credit	$2.9	$3.2	Income
2	Pass-through entity investor share of FIT*** Tax credit:	$10.0	$10.0	FIT***
3	Investment bullion and coin exemption	$3.6	$5.6	Sales
4	Sale of qualified property to qualified motor racing teams:	minimal	minimal	Sales
5a	Business income deduction eliminated lawyers and lobbyists	$0.0	$25.0	Income
5b	Business income deduction eliminated for homestead exemptions and other means-tested exemptions(1)	$0.0	$6.1	Various
5c	Business Income Deduction eliminated for means-tested exemptions and credits in the state income tax	$8.2	$8.0	
5d	Business income deduction eliminated for school income taxes exemptions (1)	$11.0	$11.0	School income tax
Considered for repeal or reduction but not acted on				
1	The exemption for aviation repair and maintenance services and parts	$21.6	$22.7	Sales
2	Exemption for sales of property & services for maintenance & repair of fractionally-owned aircraft	minimal	minimal	Sales
3	Sales of shares of fractionally owned aircraft	$13.8	$13.6	Sales
4	Sales of flight simulators	$1.6	$1.6	Sales
5	Business income deduction cut in half, preferential top rate repealed	$528.0	$528.0	Income
6	Motion Picture Tax Credit	$40.0	$40.0	Various
Vetoed items		$0.0	$0.0	
1	HuntingValley property tax carve-out	n/a	n/a	Property
2	Exemption of unused property subdivided for residential	n/a	n/a	Property

*Sources: Policy Matters Ohio, based on Ohio Office of Budget and Management, "Final HB 166 (132nd General Assembly) FY 20-FY 21 budget bill as of: 7/31/2019; also, where OBM estimates were not available, Ohio Legislative Service Commission comparison document for House Bill 166 as enrolled and Ohio Department of Taxation 2020-21 Tax Expenditure Report. *CAT stands for Commercial Activity Tax, Ohio's primary business tax. ** Property taxes are local taxes. *** FIT stands for Financial Institutions Tax. **** Minimal stands for $1 million or less in the Ohio Tax Expenditure Report. Numbers in red indicate the state will, or would, forego revenues. Figures in black indicate the state would gain forgone revenue.*

APPENDIX 3: TAX BREAKS UNDER CONSIDERATION

TAX EXPENDITURES WITH SIMILAR LEGISLATION MOVING IN BOTH CHAMBERS

1. **Tax expenditures for agricultural purposes**
   a. **House Bill 183:** Gives income tax credits to beginning farmers participating in a financial management program and businesses that sell or rent agricultural land, livestock, facilities, or equipment to beginning farmers. This bill has received three hearings in the House Agriculture and Rural Development Committee. The LSC analysis stated revenue forgone as a result of this proposal could be in the hundreds of millions of dollars.[52]
   b. **Senate Bill 159:** This is a companion bill to HB 183. It has been introduced in the Senate and referred to Senate Ways and Means.

2. **Tax expenditures for 529 educational savings accounts**
   a. **House Bill 193:** This bill expands the income tax deduction for contributions to 529 education plans to include contributions to 529 plans established by other states. It was introduced in the House and referred to the House Ways and Means Committee.
   b. **Senate Bill 125:** This is a companion bill to HB 193, described above. It has been introduced in the Senate and referred to the Senate Ways and Means committee.

TAX EXPENDITURES PASSED BY ONE CHAMBER AND REFERRED TO COMMITTEE IN THE OTHER CHAMBER

1. **Senate Bill 39:** Creates an insurance premiums tax credit for capital contributions to certain development projects.[53] This was passed in the Senate and referred to the House, where it will be heard in the Economic Development and Workforce Committee. There is no cap on the money the state may be required to provide for eligible projects. Each eligible project may be awarded up to $5 million.[54]

2. **Senate Bill 95:** Would provide greatly enlarged tax incentives with lengthened terms to certain large-scale development projects that meet investment or payroll thresholds. Before a business may qualify for any of these enhanced incentives, it must either operate a “megaproject” or sell tangible personal property to one.[55] The LSC said that the revenue loss was indeterminate.[56] The bill passed the Senate and was referred to House Ways and Means committee.

52 Cummins, Philip A., Ohio Legislative Service Commission, Fiscal Note and Local Impact Statement, as introduced, at https://www.legislature.ohio.gov/download?key=11683&format=pdf

53 Schiller, Zach and Patton, Wendy, Testimony on Senate Bill 39 before the Senate Finance Committee, May 21, 2019 at https://bit.ly/2KJBim1

54 Patton, Wendy and Schiller, Zach, Testimony on Senate Bill 95 before the Senate Ways and Means Committee, May 21, 2019 at https://bit.ly/33PZEIV

55 Cummins, Philip A, Ohio Legislative Service Commission, Fiscal Note and Local Impact Statement, as passed by the Senate, at https://www.legislature.ohio.gov/download?key=12073&format=pdf

56 Cummins, Philip A., Ohio Legislative Service Commission, Fiscal Note & Local Impact Statement, SB 95, As Passed by the Senate, at https://www.legislature.ohio.gov/download?key=12073&format=pdf

TAX EXPENDITURE BILLS WITHOUT COMPANION LEGISLATION IN THE OTHER CHAMBER

1. **House Bill 19:** Creates a sales tax exemption for feminine hygiene products such as tampons or pads. This bill has received four hearings in the House Ways and Means Committee. LSC estimates the state would forgo revenues of between $3 and $4 million a year; local governments and public libraries about $100,00 through the Local Government Fund (LGF) and the Public Library Fund (PLF) and counties and transit agencies that levy a sales tax, up to $1 million a year.[57]

2. **House Bill 57:** Creates a sales tax exemption for certain heat sources. This proposal was introduced in the House and referred to the House Ways and Means Committee.

3. **House Bill 109:** Authorizes local governments to grant a property tax exemption for land used for commercial maple sap extraction. Introduced in the House and referred to the House Ways & Means Committee.

4. **House Bill 134:** Creates a three-day sales tax "holiday" in March on residential Energy Star products. Introduced in the House and referred to the House Ways & Means committee.

5. **House Bill 135:** Lifts the cap on the sales tax exemptions allowed under the school sales tax holiday, expanding items that can be exempted. This bill had one hearing in the House Ways and Means committee.

6. **House Bill 143:** Grant income tax credits to those serving as volunteer peace officers, firefighters, and emergency medical technicians (EMT). This bill has had two hearings in the House Ways and Means committee. The state would forgo an estimated $64 million in 2020, which would grow to $100 million a year over 10 years. The LGF and PLF would each forgo $1.1 million in 2020.[58]

7. **House Bill 175:** Expands the manufacturing sales tax exemption to cover things used primarily to move completed manufactured products or general merchandise, and includes trucks, commercial vehicles and tractors, and motor vehicles. This proposal was introduced in the House and referred to the House Ways and Means Committee.

8. **House Bill 196:** Creates a sales tax exemption for memberships to a gym or other recreational facility that is operated by a nonprofit 501(c)(3); introduced in the House and referred to the House Ways and Means Committee.

9. **House Bill 206:** Increases the refundable income tax credit for family adoptions; introduced in the House and referred to the House Ways and Means Committee.

10. **House Bill 222:** Gives an income tax credit for expenses in training a commercial vehicle operator; introduced in house and referred to House Ways and Means Committee.

11. **House Bill 228:** Gives an income tax credit for law enforcement officials purchasing safety or protective equipment to be used during enforcement activities; introduced in the House and referred to the House Ways and Means committee.

57 Ridzwan, Ruhaiza, Ohio Legislative Service Commission, Fiscal Note and Local Impact Statement, as introduced, at https://www.legislature.ohio.gov/download?key=11337&format=pdf

58 Ridzwan, Ruhaiza, Ohio Legislative Service Commission, Fiscal Note and Local Impact Statement, as introduced, at https://www.legislature.ohio.gov/download?key=11626&format=pdf

12. **House Bill 297:** Gives a refundable income tax credit for donations to a 'qualified pregnancy resource center;'[59] introduced in the House and referred to the House Ways and Means Committee.

13. **Senate Bill 109:** Authorizes a nonrefundable income tax credit equal to 10% of student loan repayments by an individual who received a Workforce Scholarship and is employed in an in-demand job in Ohio. These credits may be taken against various taxes. There is no fiscal note. The bill has been heard once in Senate Finance.

14. **House Bill 60:** Creates a sales tax exemption for infant and toddler diapers. This bill had three hearings in the House Ways and Means committee. State revenues forgone in 2020 would be $19 million; the Local Government Fund and the Public Library Fund would forgo $300,000 each, and counties and transit agencies that levy a sales tax would forgo $4.7 million a year, with each estimate increasing by a projected 1% each year thereafter.[60]

15. **Senate Bill 113:** Creates a sales tax exemption for incontinence products such as washable or disposable diapers, pull-ups, underpads, or liners for Medicaid recipients; referred to Senate Ways and Means. This is similar to HB 60, but the items specified are not limited to products for infants, are restricted to Medicaid enrollees and require a prescription. It has been referred to Senate Ways and Means committee.

TAX EXPENDITURE PROPOSALS ADDRESSED IN STATE BUDGET BILLS; MAY OR MAY NOT CONTINUE TO ADVANCE IN THE LEGISLATURE

1. **House Bill 114:** Removes the income cap for the earned income tax credit (EITC) and makes it refundable. This bill was introduced and referred to the House Ways and Means committee. The cap on the EITC was subsequently removed in HB 62, the state transportation budget bill for 2020-21. Whether legislators continue to advance this to address refundability remains to be seen.

2. **House Bill 245:** Removes the deadline for owners or lessee to apply for a property tax exemption for a qualified energy project. This bill was introduced in the House and referred to the Energy and Natural Resources Committee. HB 166, the budget bill for 2020-21, extended the deadline by two years, to 2022. Whether the legislature takes it up again for a permanent extension, as proposed in HB 245, remains to be seen.

3. **House Bill 149:** Exempts from property tax a portion of the value of land subdivided for residential development measured from when the land is subdivided until construction begins or the land is sold, up to eight years. This bill had two hearings in the Economic Development and Workforce committee. The LSC provided no firm estimates but stated the fiscal impact on local governments could be in the low millions.[61] The provision was considered and included in HB 166 but vetoed by the governor. Whether it will continue to advance in the legislature remains to be seen.

59 A qualified pregnancy resource center offers services to assist "pregnant women in carrying their pregnancies to term." Legislative text as introduced at https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA133-HB-297

60 Makela, Eric, Ohio Legislative Service Commission, Fiscal Note and Local Impact Statement, In House Ways and Means, at https://www.legislature.ohio.gov/download?key=11345&format=pdf

61 Cummins, Philip A., Ohio Legislative Service Commission, Fiscal Note & Local Impact Statement, SB 95, As Passed by the Senate, at https://www.legislature.ohio.gov/download?key=11567&format=pdf

4. **Tax expenditures for educator out-of-pocket expenses**

    a. **House Bill 121:** Creates a nonrefundable tax credit for the purchase of instructional materials by a K-12 educator. This bill was referred to the Ways and Means committee and hearings held; a similar measure – for a tax deduction, not a credit – was included in the Senate's budget bill but was not included in the final budget for 2020-21.

    b. **Senate Bill 26:** Permits a state income tax deduction for teachers' out-of-pocket expenses for professional development and classroom supplies. This is a companion bill to HB 121. The Senate included a similar measure in its version of the 2020-21 budget bill but did not make it into the final bill signed by the governor. It is not clear if these bills will continue to advance.

5. **Tax expenditure for the Motion Picture Tax Credit**

    a. **House Bill 162:** Increases the maximum amount of motion picture tax credits that may be awarded from $40 million per fiscal year to $100 million per fiscal biennium. The bill specifies that not more than $50 million in tax credits may be awarded in the first year of a fiscal biennium.[62] The motion picture tax credit was addressed in HB 166, with provisions from SB 37 adopted, but there was no increase in amount (in fact, the House voted to scrap the entire credit). Whether this component of the legislation advances remains to be seen.

    b. **Senate Bill 37:** Expands the eligibility for the motion picture tax credit and revises the credit.[63] This bill was considered at the same time as HB 162 but did not include an increase in total amount. Programmatic changes in this bill were adopted in HB 166.

TAX PROPOSALS ADDRESSED IN THE STATE BUDGET BILL THAT WILL NOT CONTINUE IN THE LEGISLATURE

1. **Senate Bill 8:** Gives an income tax credit for investment in an Ohio Opportunity Zone. Passed in the Senate and given two hearings in the House. Provisions were enacted in HB 166, the budget bill for 2020-21.[64] The same provisions of SB 8 were included in the budget bill, so it will not be continued.

2. **Senate Bill 153:** Permits manufacturers to meet alternative minimum employment and investment requirements to qualify for the Job Retention Tax Credit. This bill was enacted in HB 166, the state budget bill for 2020-21. It will not be continued.

62 Joe McDaniels, Ohio Legislative Service Commission, Bill Analysis, HB 162 as referred by house rules and reference, at https://www.legislature.ohio.gov/download?key=12291&format=pdf

63 Patton, Wendy, "Testimony: Movie Tax Credit bill raises questions," Testimony to the House Finance Committee, May 17, 2019 at https://bit.ly/2TMAMqm

64 Patton, Wendy, Testimony on Senate Bill 8 before the Senate Ways and Means Committee, March 5, 2019 at https://bit.ly/2ZhwwAN

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