

As Reported by the Senate Ways and Means Committee

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Representative Boose

Cosponsors: Representatives Blessing, Hambley, Hood, Scherer, Sprague, Strahorn, Young, Dever, Driehaus, Rogers, Anielski, Antonio, Ashford, Baker, Barnes, Brown, Buchy, Burkley, Butler, Celebrezze, Cera, Clyde, Conditt, Derickson, Dovilla, Duffey, Fedor, Green, Grossman, Hackett, Hagan, Henne, Hill, Huffman, Johnson, T., Koehler, Kraus, Lepore-Hagan, Maag, McClain, McColley, O'Brien, M., O'Brien, S., Patterson, Perales, Phillips, Ramos, Reineke, Retherford, Rezabek, Romanchuk, Ryan, Schuring, Sears, Smith, K., Stinziano, Sweeney, Sykes, Terhar, Thompson

A BILL

To amend sections 107.03, 125.01, 125.071, and 5703.48 and to enact section 5703.95 of the Revised Code to create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing tax expenditures and to prohibit the Director of Administrative Services from making purchases by competitive sealed proposal without prior Controlling Board approval.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 107.03, 125.01, 125.071, and 5703.48 be amended and section 5703.95 of the Revised Code be enacted to read as follows:

Sec. 107.03. The governor shall submit to the general

assembly, not later than four weeks after its organization, a 14
state budget containing a complete financial plan for the 15
ensuing fiscal biennium, excluding items of revenue and 16
expenditure described in section 126.022 of the Revised Code. 17
However, in years of a new governor's inauguration, the budget 18
shall be submitted not later than the fifteenth day of March. In 19
years of a new governor's inauguration, only the new governor 20
shall submit a budget to the general assembly. In addition to 21
other things required by law, the governor's budget shall 22
contain: 23

(A) A general budget summary by function and agency 24
setting forth the proposed total expenses from each and all 25
funds and the anticipated resources for meeting such expenses; 26
such resources to include any available balances in the several 27
funds at the beginning of the biennium and a classification by 28
totals of all revenue receipts estimated to accrue during the 29
biennium under existing law and proposed legislation. 30

(B) A detailed statement showing the amounts recommended 31
to be appropriated from each fund for each fiscal year of the 32
biennium for current expenses, including, but not limited to, 33
personal services, supplies and materials, equipment, subsidies 34
and revenue distribution, merchandise for resale, transfers, and 35
nonexpense disbursements, obligations, interest on debt, and 36
retirement of debt, and for the biennium for capital outlay, to 37
the respective departments, offices, institutions, as defined in 38
section 121.01 of the Revised Code, and all other public 39
purposes; and, in comparative form, the actual expenses by 40
source of funds during each fiscal year of the previous two 41
bienniums for each such purpose. No alterations shall be made in 42
the requests for the legislative and judicial branches of the 43
state filed with the director of budget and management under 44

section 126.02 of the Revised Code. If any amount of federal 45
money is recommended to be appropriated or has been expended for 46
a purpose for which state money also is recommended to be 47
appropriated or has been expended, the amounts of federal money 48
and state money involved shall be separately identified. 49

(C) A detailed estimate of the revenue receipts in each 50
fund from each source under existing laws during each year of 51
the biennium; and, in comparative form, actual revenue receipts 52
in each fund from each source for each year of the two previous 53
bienniums; 54

(D) The estimated cash balance in each fund at the 55
beginning of the biennium covered by the budget; the estimated 56
liabilities outstanding against each such balance; and the 57
estimated net balance remaining and available for new 58
appropriations; 59

(E) A detailed estimate of the additional revenue receipts 60
in each fund from each source under proposed legislation, if 61
enacted, during each year of the biennium; 62

(F) A description of each tax expenditure; a detailed 63
estimate of the amount of revenues not available to the general 64
revenue fund under existing laws during each fiscal year of the 65
biennium covered by the budget due to the operation of each tax 66
expenditure; and, in comparative form, the amount of revenue not 67
available to the general revenue fund during each fiscal year of 68
the immediately preceding biennium due to the operation of each 69
tax expenditure. The report prepared by the department of 70
taxation pursuant to section 5703.48 of the Revised Code shall 71
be submitted to the general assembly as an appendix to the 72
governor's budget. As used in this division, "tax expenditure" 73
has the same meaning as in section 5703.48 of the Revised Code. 74

(G) The most recent report prepared by the tax expenditure review committee under division (F) of section 5703.95 of the Revised Code, which shall be submitted to the general assembly as an appendix to the governor's budget. 75
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Sec. 125.01. As used in this chapter: 79

(A) "Order" means a copy of a contract or a statement of the nature of a contemplated expenditure, a description of the property or supplies to be purchased or service to be performed, other than a service performed by officers and regular employees of the state, and per diem of the national guard, and the total sum of the expenditure to be made therefor, if the sum is fixed and ascertained, otherwise the estimated sum thereof, and an authorization to pay for the contemplated expenditure, signed by the person instructed and authorized to pay upon receipt of a proper invoice. 80
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(B) "Invoice" means an itemized listing showing delivery of the supplies or performance of the service described in the order, and the date of the purchase or rendering of the service, or an itemization of the things done, material supplied, or labor furnished, and the sum due pursuant to the contract or obligation. 90
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(C) "Products" means materials, manufacturer's supplies, merchandise, goods, wares, and foodstuffs. 96
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(D) "Produced" means the manufacturing, processing, mining, developing, and making of a thing into a new article with a distinct character in use through the application of input, within the state, of Ohio products, labor, skill, or other services. "Produced" does not include the mere assembling or putting together of non-Ohio products or materials. 98
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(E) "Ohio products" means products that are mined, 104
excavated, produced, manufactured, raised, or grown in the state 105
by a person where the input of Ohio products, labor, skill, or 106
other services constitutes no less than twenty-five per cent of 107
the manufactured cost. With respect to mined products, such 108
products shall be mined or excavated in this state. 109

(F) "Purchase" means to buy, rent, lease, lease purchase, 110
or otherwise acquire supplies or services. "Purchase" also 111
includes all functions that pertain to the obtaining of supplies 112
or services, including description of requirements, selection 113
and solicitation of sources, preparation and award of contracts, 114
all phases of contract administration, and receipt and 115
acceptance of the supplies and services and payment for them. 116

(G) "Services" means the furnishing of labor, time, or 117
effort by a person, not involving the delivery of a specific end 118
product other than a report which, if provided, is merely 119
incidental to the required performance. "Services" does not 120
include services furnished pursuant to employment agreements or 121
collective bargaining agreements. 122

(H) "Supplies" means all property, including, but not 123
limited to, equipment, materials, other tangible assets, and 124
insurance, but excluding real property or an interest in real 125
property. 126

(I) "Competitive selection" means any of the following 127
procedures for making purchases: 128

(1) Competitive sealed bidding under section 125.07 of the 129
Revised Code; 130

(2) ~~Competitive sealed proposals under section 125.071 of~~ 131
~~the Revised Code;~~ 132

(3) Reverse auctions under section 125.072 of the Revised Code.	133 134
Sec. 125.071. (A) In accordance with rules the director of administrative services shall adopt, the director may make purchases by competitive sealed proposal whenever the director determines that the use of competitive sealed bidding is not possible or not advantageous to the state.	135 136 137 138 139
(B) Proposals shall be solicited through a request for proposals. The request for proposals shall state the relative importance of price and other evaluation factors. Notice of the request for proposals shall be given in accordance with rules the director shall adopt.	140 141 142 143 144
(C) Proposals shall be opened so as to avoid disclosure of contents to competing offerors.	145 146
In order to ensure fair and impartial evaluation, proposals and related documents submitted in response to a request for proposals are not available for public inspection and copying under section 149.43 of the Revised Code until after the award of the contract.	147 148 149 150 151
(D) As provided in the request for proposals, and under rules the director shall adopt, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of ensuring full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding any clarification, correction, or revision of proposals. No disclosure of any information derived from proposals submitted by competing offerors shall occur when	152 153 154 155 156 157 158 159 160 161

discussions are conducted. 162

(E) Award may be made to the offeror whose proposal is 163
determined to be the most advantageous to this state, taking 164
into consideration factors such as price and the evaluation 165
criteria set forth in the request for proposals. The contract 166
file shall contain the basis on which the award is made. 167

(F) The director shall not make any purchases under this 168
section without the prior approval of the controlling board. 169

Sec. 5703.48. (A) As used in this section and section 170
107.03 of the Revised Code, "tax expenditure" means ~~any a~~ tax 171
provision in the Revised Code that exempts, either in whole or 172
in part, certain persons, income, goods, services, or property 173
from the effect of taxes ~~established in the Revised Code~~ levied 174
by the state, including, but not limited to, tax deductions, 175
exemptions, deferrals, exclusions, allowances, credits, 176
reimbursements, and preferential tax rates, provided all of the 177
following apply to the provision: 178

(1) The provision reduces, or has the potential to reduce, 179
revenue to the general revenue fund; 180

(2) The persons, income, goods, services, or property 181
exempted by the provision would have been part of a defined tax 182
base; 183

(3) The persons, income, goods, services, or property 184
exempted by the provision are not subject to an alternate tax 185
levied by the state; 186

(4) The provision is subject to modification or repeal by 187
an act of the general assembly. 188

(B) The department of taxation shall prepare and submit to 189

the governor not later than the first day of November in each 190
even-numbered year a report describing the effect of tax 191
expenditures on the general revenue fund. The report shall 192
contain a description of each tax expenditure under existing 193
laws and, in comparative form, a detailed estimate of the 194
approximate amount of revenue not available to the state general 195
revenue fund in each fiscal year of the current and ensuing 196
fiscal bienniums as a result of the operation of each tax 197
expenditure. The report shall be prepared in such a manner as to 198
facilitate the inclusion of the information provided by the 199
report in the governor's budget. 200

Sec. 5703.95. (A) As used in this section, "tax 201
expenditure" has the same meaning as in section 5703.48 of the 202
Revised Code. 203

(B) There is hereby created the tax expenditure review 204
committee, consisting of seven members, composed of the 205
following: 206

(1) Three members of the house of representatives 207
appointed by the speaker of the house of representatives in 208
consultation with the minority leader of the house of 209
representatives. Members described in division (B)(1) of this 210
section shall not all be members of the same party and should be 211
members of the house of representatives committee that deals 212
primarily with tax legislation; 213

(2) Three members of the senate appointed by the president 214
of the senate in consultation with the minority leader of the 215
senate. Members described in division (B)(2) of this section 216
shall not all be members of the same party and should be members 217
of the senate committee that deals primarily with tax 218
legislation; 219

(3) The tax commissioner or the tax commissioner's 220
designee. The member described in division (B)(3) of this 221
section shall be a nonvoting member. 222

The speaker of the house of representatives and the 223
president of the senate shall make initial appointments to the 224
committee not later than thirty days following the effective 225
date of the enactment of this section. Thereafter, the terms of 226
the office for appointed members shall be the same as the term 227
of each general assembly. Members may be reappointed, provided 228
the member continues to meet all other eligibility requirements. 229
Vacancies shall be filled in the manner provided for original 230
appointments. Any member appointed to fill a vacancy before the 231
expiration of the term for which the predecessor was appointed 232
shall hold office as a member for the remainder of that term. 233
Appointed members of the committee serve at the pleasure of the 234
member's appointing authority and may be removed only by the 235
appointing authority. 236

(C) The tax expenditure review committee shall hold its 237
first meeting within ninety days after the effective date of the 238
enactment of this section. At the first meeting, the members 239
shall elect a chairperson, who shall be one of the members 240
described in division (B)(1) or (2) of this section. Thereafter, 241
the committee shall meet at least once during the first year of 242
each fiscal biennium to review existing tax expenditures 243
pursuant to division (D) of this section, provided the committee 244
shall hold, for any such expenditure, at least one meeting at 245
which a person may present to the committee evidence or 246
testimony related to that expenditure. Any person may submit to 247
the chairperson a request that the committee meet to accept 248
evidence or testimony on a tax expenditure. The committee is a 249
public body for the purposes of section 121.22 of the Revised 250

<u>Code.</u>	251
<u>The chairperson of the committee shall serve until the</u>	252
<u>thirty-first day of December of each even-numbered year.</u>	253
<u>Thereafter, members shall elect a new chairperson. If the</u>	254
<u>preceding chairperson was a member described in division (B)(1)</u>	255
<u>of this section, the new chairperson shall be a member described</u>	256
<u>in division (B)(2) of this section. If the preceding chairperson</u>	257
<u>was a member described in division (B)(2) of this section, the</u>	258
<u>new chairperson shall be a member described in division (B)(1)</u>	259
<u>of this section.</u>	260
<u>A vacancy on the committee does not impair the right of</u>	261
<u>the other members to exercise all the functions of the</u>	262
<u>committee. The presence of a majority of the voting members of</u>	263
<u>the committee constitutes a quorum for the conduct of business</u>	264
<u>of the committee. The concurrence of at least a majority of the</u>	265
<u>voting members of the committee is necessary for any action to</u>	266
<u>be taken by the committee.</u>	267
<u>Upon the committee's request, the department of taxation,</u>	268
<u>development services agency, office of budget and management, or</u>	269
<u>other state agency shall provide any information in its</u>	270
<u>possession that the committee requires to perform its duties.</u>	271
<u>The staff of the legislative service commission shall</u>	272
<u>assist the committee as directed by the committee.</u>	273
<u>(D) The committee shall establish a schedule for review</u>	274
<u>for each tax expenditure so that each expenditure is reviewed at</u>	275
<u>least once every eight years. The schedule may provide for the</u>	276
<u>review of each tax expenditure in the order the expenditures</u>	277
<u>were enacted or modified, beginning with the least recently</u>	278
<u>enacted or modified tax expenditure. Alternatively, the review</u>	279

schedule may group tax expenditures by the individuals or 280
industries benefiting from the expenditures, the objectives of 281
each expenditure, or the policy rationale of each expenditure. 282
In its review, the committee shall make recommendations as to 283
whether each tax expenditure should be continued without 284
modification, modified, scheduled for further review at a future 285
date to consider repealing the expenditure, or repealed 286
outright. For each expenditure reviewed, the committee may 287
recommend accountability standards for the future review of the 288
expenditure. The committee may consider, when reviewing a tax 289
expenditure, any of the relevant factors described in division 290
(E) of this section. 291

(E) In conducting reviews pursuant to division (D) of this 292
section, the committee may consider the following factors: 293

(1) The number and classes of persons, organizations, 294
businesses, or types of industries that would receive the direct 295
benefit or consequences of the tax expenditure; 296

(2) The fiscal impact of the tax expenditure on state and 297
local taxing authorities, including any past fiscal effects and 298
expected future fiscal impacts of the tax expenditure in the 299
following eight-year period; 300

(3) Public policy objectives that might support the tax 301
expenditure. In researching such objectives, the committee may 302
consider the expenditure's legislative history, the tax 303
expenditure's sponsor's intent in proposing the tax expenditure, 304
or the extent to which the tax expenditure encourages or would 305
encourage business growth or relocation into the state, promotes 306
or would promote growth or retention of high-wage jobs in the 307
state, or aids or would aid community stabilization. 308

<u>(4) Whether the tax expenditure successfully accomplishes</u>	309
<u>any of the objectives identified in division (E) (3) of this</u>	310
<u>section;</u>	311
<u>(5) Whether the objectives identified in division (E) (3)</u>	312
<u>of this section would or could have been accomplished</u>	313
<u>successfully in the absence of the tax expenditure or with less</u>	314
<u>cost to the state or local governments;</u>	315
<u>(6) Whether the objectives identified in division (E) (3)</u>	316
<u>of this section could have been accomplished successfully</u>	317
<u>through a program that requires legislative appropriations for</u>	318
<u>funding;</u>	319
<u>(7) The extent to which the tax expenditure may provide</u>	320
<u>unintended benefits to an individual, organization, or industry</u>	321
<u>other than those the general assembly or sponsor intended or</u>	322
<u>creates an unfair competitive advantage for its recipient with</u>	323
<u>respect to other businesses in the state;</u>	324
<u>(8) The extent to which terminating the tax expenditure</u>	325
<u>may have negative effects on taxpayers that currently benefit</u>	326
<u>from the tax expenditure;</u>	327
<u>(9) The extent to which terminating the tax expenditure</u>	328
<u>may have negative or positive effects on the state's employment</u>	329
<u>and economy;</u>	330
<u>(10) The feasibility of modifying the tax expenditure to</u>	331
<u>provide for adjustment or recapture of the proceeds of the tax</u>	332
<u>expenditure if the objectives of the tax expenditure are not</u>	333
<u>fulfilled by the recipient of the tax expenditure.</u>	334
<u>(F) The committee shall prepare a report of its</u>	335
<u>determinations under division (D) of this section and, not later</u>	336
<u>than the first day of July of each even-numbered year, submit a</u>	337

copy of the report to the governor, the speaker of the house of 338
representatives, the president of the senate, the minority 339
leader of the house of representatives, and the minority leader 340
of the senate. The first report shall be submitted either in the 341
year of the effective date of this section or in the first even- 342
numbered year thereafter. If the committee maintains a web site, 343
the committee shall cause a copy of the report to be posted on 344
the web site in a form enabling access to the report by the 345
public within thirty days after the report is submitted under 346
this division. If the committee does not maintain a web site, 347
the committee shall request that the president of the senate and 348
the speaker of the house of representatives cause the report to 349
be posted on the web site of the general assembly. 350

(G) Any bill introduced in the house of representatives or 351
the senate that proposes to enact or modify one or more tax 352
expenditures should include a statement explaining the 353
objectives of the tax expenditure or its modification and the 354
sponsor's intent in proposing the tax expenditure or its 355
modification. 356

Section 2. That existing sections 107.03, 125.01, 125.071, 357
and 5703.48 of the Revised Code are hereby repealed. 358