Greenbook

LBO Analysis of Enacted Budget

Ohio Department of Taxation

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August 2021

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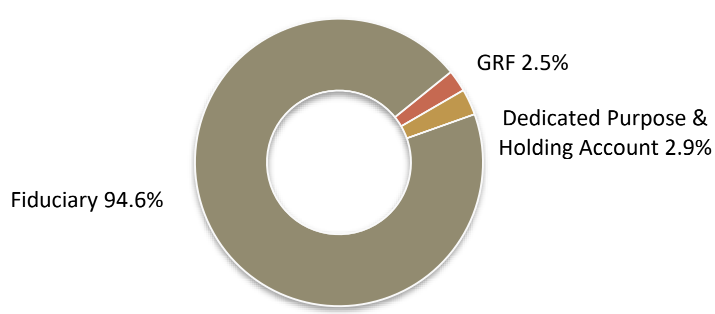
Ohio Department of Taxation

Quick look...

- The Department of Taxation (TAX) administers and enforces most state and locally levied taxes.
  - It administers state taxes, except on insurance, spirituous liquor, and motor vehicle licenses.
  - It determines amounts of various revenue distributions to local governments.
- The Tax Commissioner heads the Department, and is appointed by the Governor.
- About 95% of TAX's appropriations are under the Fiduciary Fund Group, mostly for refunds of taxes paid in excess of amounts owed.
- TAX's administrative expenses, about 6% of its total budget, are funded from the GRF (45%) and various non-GRF funds (55%). Revenues to these non-GRF funds are from shares of receipts from taxes administered by TAX, fees for services provided, and transfers.

Fund Group	FY 2020 Actual	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
General Revenue	$56,946,735	$53,163,990	$56,391,613	$56,655,556
Dedicated Purpose	$58,039,734	$59,088,056	$67,625,291	$67,960,291
Fiduciary	$2,439,821,695	$2,623,256,542	$2,180,149,300	$2,180,149,300
Holding Account	$5,000	$689	$25,500	$25,500
Total	$2,554,813,163	$2,735,509,276	$2,304,191,704	$2,304,790,647
% change	--	7.1%	-15.8%	0.0%
GRF % change	--	*-6.6%*	*6.1%*	*0.5%*

TAX Budget by Fund Group
FY 2022-FY 2023 Biennium



Department of Taxation budget overview

Agency overview

In administering and enforcing taxes, the Department of Taxation (TAX) performs such duties as assisting taxpayers, processing tax returns, determining tax liabilities, issuing refunds and assessments, conducting audits, and enforcing Ohio's tax laws. TAX also is responsible for determining the amounts of various revenue distributions to local governments, including motor fuel tax distributions, reimbursement of local governments for certain mandated property tax relief, transitional assistance for elimination of local taxation of tangible personal property of general business and the reduction of assessment rates on public utility tangible personal property, permissive sales and use tax distributions, and allocations to counties from the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). The Tax Commissioner is a member of the Governor's cabinet.

As shown in the chart in the "**Quick look**" section above, most of TAX's budget is in the Fiduciary Fund Group, principally to pay tax refunds. Operating expenses are almost all of the rest of the budget, and mainly cover the cost of the personnel who perform TAX's various functions, along with supplies, equipment, and maintenance. In TAX's budget for the current biennium, GRF funding is used only for operating expenses. Before FY 2016, TAX's budget also included GRF funding of state reimbursements to local governments for their revenue losses from property tax rollbacks and the homestead exemption. These reimbursements have continued to be administered by TAX, but as part of the State Revenue Distributions budget. This separate portion of the main operating budget is discussed in more detail below.

Appropriation summary

The enacted budget provides total appropriations of $2,304.2 million in FY 2022 and $2,304.8 million in FY 2023 for the Department. The table and chart in the "**Quick look**" section present the appropriations by fund group. As shown on the chart, the Fiduciary Fund Group accounts for most of the Department's budget, mainly for tax refunds, as noted above. Of the total FY 2022 appropriations, GRF-funded appropriations amount to $56.4 million, an increase of $3.2 million (6.1%) over FY 2021 GRF expenditures. FY 2023 GRF-funded appropriations total $56.7 million, an increase of $0.3 million (0.5%) over the FY 2022 amount.

Tax law changes

The enacted budget made a number of notable changes to tax law, including a significant reduction in income tax rates. Those changes are described in a separate section on tax provisions following the analysis of appropriations.

Administrative changes

H.B. 110 eliminates the Tax Expenditure Review Committee and its related reporting duties; the Tax Commissioner or the Commissioner's designee was a nonvoting member of the committee. It repeals a provision recommending that any bill proposing to enact or modify a tax expenditure include a statement of the bill's intent. These changes will result in cost savings, likely no more than minimal, for state agencies required to assist the committee, including the

Department of Taxation, the Office of Budget and Management, the Department of Development, and the Legislative Service Commission.

H.B. 110 creates the Federally Subsidized Housing Study Committee and requires it to submit a report to the General Assembly not later than July 1, 2022. The report is to make recommendations about the valuation and valuation process, for purposes of real property taxation, of federally subsidized residential rental property. Members of the committee include three members of the House of Representatives, three members of the Senate, and ten members appointed by the Governor in compliance with group representation specifications in the budget act. The provision specifies that committee members will not be compensated. H.B. 110 does not require the Department to provide staff services to the committee, but its decisions may affect the administration of property taxes in the future.

The enacted budget permits the Department to share certain information with the State Racing Commission necessary to verify compliance with horse racing laws. Similarly, a provision of H.B. 74, the transportation budget, permits the Department to share information with the Ohio Rail Development Commission for the purpose of verifying eligibility for grants or loans issued by the Commission. H.B. 110 requires the Department to enter into a data sharing agreement with the Ohio Department of Education (ODE), along with the Department of Job and Family Services, to help ODE in administering the EdChoice scholarship program.

H.B. 110 changes the time within which to file an amended return to report changes to a taxpayer's Ohio resident credit from 60 days to 90 days, making the time period consistent with other amended return deadlines. Because the resident credit is often contingent on tax required to be paid to another state or the District of Columbia, when a correction is needed to the tax liability to the other jurisdiction, the Ohio resident tax credit also needs to be corrected.

Analysis of FY 2022-FY 2023 budget

This section provides an analysis of funding for each appropriation line item (ALI) in the Department of Taxation section of the main operating budget. It then gives a brief overview of ALIs in the State Revenue Distributions (RDF) section of the budget.

Department of Taxation

Introduction

For organizational purposes, the ALIs listed under TAX's budget section are grouped into two major categories based on their funding purposes. In the analysis that follows, ALIs for tax administration precede those for revenue distribution.

To aid the reader in locating each ALI in the analysis, the table below shows the category in which each ALI has been placed, listing the ALIs in order within their respective fund groups and funds. This is the same order the ALIs appear in the TAX section of the budget act.

Each appropriation line item is shown below with its actual expenditures in FY 2021 and appropriations for FY 2022 and FY 2023. This information is followed by a description of how the appropriation is used.

Categorization of TAX's Appropriation Line Items for Analysis of FY 2022-FY 2023 Budget				
Fund	ALI	ALI Name		Category
General Revenue Fund Group				
GRF	110321	Operating Expenses	1	Tax Administration
GRF	110404	Tobacco Settlement Enforcement	1	Tax Administration
Dedicated Purpose Fund Group				
2280	110628	CAT Administration	1	Tax Administration
4350	110607	Local Tax Administration	1	Tax Administration
4360	110608	Motor Vehicle Audit Administration	1	Tax Administration
4380	110609	School District Income Tax Administration	1	Tax Administration
4C60	110616	International Registration Plan Administration	1	Tax Administration
4R60	110610	Tire Tax Administration	1	Tax Administration
5BP0	110639	Wireless 9-1-1 Administration	1	Tax Administration
5JM0	110637	Casino Tax Administration	1	Tax Administration
5N50	110605	Municipal Income Tax Administration	1	Tax Administration
5N60	110618	Kilowatt Hour Tax Administration	1	Tax Administration
5NY0	110643	Petroleum Activity Tax Administration	1	Tax Administration
5V70	110622	Motor Fuel Tax Administration	1	Tax Administration
5V80	110623	Property Tax Administration	1	Tax Administration

Fund	ALI	ALI Name		Category
Categorization of TAX's Appropriation Line Items for Analysis of FY 2022-FY 2023 Budget				
6390	110614	Cigarette Tax Enforcement	1	Tax Administration
6880	110615	Local Excise Tax Administration	1	Tax Administration
Fiduciary Fund Group				
4250	110635	Tax Refunds	2	Revenue Distribution
5CZ0	110631	Vendor's License Application	2	Revenue Distribution
Holding Account Fund Group				
R010	110611	Tax Distributions	2	Revenue Distribution
R011	110612	Miscellaneous Income Tax Receipts	2	Revenue Distribution

Category 1: Tax Administration

This category of appropriation line items provides funding to pay TAX's costs to administer the state's tax laws. The tax administration function includes several components. The Taxpayer Services Program provides information to taxpayers and improves compliance with tax laws by telephone and email, and through presentations to groups. Tax Processing reviews paper and electronic submissions of tax forms, enters the data into TAX's computer systems, and retains tax returns. Tax Compliance audits returns and issues notices and assessments for unpaid taxes, matches persons delinquent in making child support payments with taxpayers owed Ohio income tax refunds, provides the first level of appeal of the Tax Commissioner's findings in tax disputes, and engages in other enforcement and investigation activities. Tax Policy and Analysis monitors and analyzes tax legislation, gives technical assistance to the executive and legislative branches, and provides for the legal counsel needed in tax cases. Local Government Services gives information and assistance to units of local government, and provides for administration of certain local taxes.

C1:1: Operating Expenses (ALI 110321)

Fund/ALI		FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
GRF ALI 110321, Operating Expenses		$53,042,227	$56,240,803	$56,504,746
	% change	--	6.0%	0.5%

This GRF item is used by TAX mainly to pay for personal services, also for purchased personal services, supplies and maintenance, and equipment expenses. Part of the administrative costs of the Taxpayer Services, Tax Processing, Tax Compliance, Tax Policy and Analysis, and Tax Operations functions are paid from this line item. H.B. 110 appropriates $56.2 million in FY 2022, an increase of $3.2 million (6.0%) from FY 2021 expenditures. The FY 2023 appropriation is $0.3 million (0.5%) greater than the FY 2022 appropriation.

C1:2: Tobacco Settlement Enforcement (ALI 110404)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
GRF ALI 110404, Tobacco Settlement Enforcement	$121,763	$150,810	$150,810
% change	--	23.9%	0.0%

This GRF item pays for enforcement of cigarette tax laws, along with the Cigarette Tax Enforcement item, ALI 110614. TAX also assists the Attorney General's Office with noncompliance and enforcement of the Tobacco Master Settlement Agreement. The FY 2022 appropriation amount is about $29,000 (23.9%) more than FY 2021 expenditures.

C1:3: CAT Administration (ALI 110628)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
2280 ALI 110628, CAT Administration	$11,921,498	$10,545,000	$10,880,000
% change	--	-11.5%	3.2%

This item supports administration of various taxes including the commercial activity tax (CAT). The line item is funded by 0.65% of commercial activity tax receipts and $100,000 of qualified distribution center annual fees. A reduction in this funding percentage was vetoed by the Governor (see below). As a line item veto, this change to the budget did not increase the appropriation amounts by the approximately $3.2 million to $3.3 million that would have brought them into line with the anticipated higher revenues as a result of the veto that will be available for spending from the fund.

C1:4: Local Tax Administration (ALI 110607)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
4350 ALI 110607, Local Tax Administration	$26,533,886	$31,020,628	$31,020,628
% change	--	16.9%	0.0%

This item is used to pay costs incurred by TAX in collecting and administering the county and regional transit authority sales and use taxes. Revenues to the fund are from a 1% fee on net collections of this tax. An uncodified provision of the budget act permits this line item to be used to pay travel expenses of members of Ohio's delegation to the Streamlined Sales Tax Project.

C1:5: Motor Vehicle Audit Administration (ALI 110608)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
4360 ALI 110608, Motor Vehicle Audit Administration	$1,299,204	$1,500,000	$1,500,000
% change	--	15.5%	0.0%

TAX's costs to investigate sales and use tax returns filed for person-to-person motor vehicle transactions, to determine if tax obligations have been met, are paid from this line item, Fund 4360. The source of funding is 15¢ from issuance of each vehicle certificate of title, reduced from 25¢ by H.B. 110, which instead directs this 10¢ that the Motor Vehicle Sales Audit Fund (Fund 4360) no longer receives to the Highway Operating Fund (Fund 7002).

C1:6: School District Income Tax Administration (ALI 110609)

Fund/ALI		FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
4380 ALI 110609, School District Income Tax Administration		$7,522,463	$9,000,000	$9,000,000
	% change	--	19.6%	0.0%

This item supports administration by TAX of the school district income tax. These expenses include costs to convey information to employers about the tax rate in any school district. Funding is from 1.5% of school district income tax collections. Money remaining in the fund after payment of administrative costs is returned to Fund 7067, from which collections are distributed to school districts. TAX distributed revenues to 215 school districts in the latest quarter.

C1:7: International Registration Plan Administration (ALI 110616)

Fund/ALI		FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
4C60 ALI 110616, International Registration Plan Administration		$565,906	$705,869	$705,869
	% change	--	24.7%	0.0%

This item supports Department of Taxation audits of persons who have registered motor vehicles under the International Registration Plan. This plan provides for payments among states that are members of the plan for portions of registration taxes that the states are eligible to receive because of operation within their borders of apportionable vehicles registered in other states.

C1:8: Tire Tax Administration (ALI 110610)

Fund/ALI		FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
4R60 ALI 110610, Tire Tax Administration		$83,606	$180,000	$180,000
	% change	--	115.3%	0.0%

This item supports administration of the tire tax. Revenue is from 2% of the $1 per tire tax. The rest goes to the Scrap Tire Management Fund (Fund 4R50) used by the Ohio

Environmental Protection Agency and the Soil and Water Conservation District Assistance Fund (Fund 5BV0) used by the Department of Agriculture.

C1:9: Wireless 9-1-1 Administration (ALI 110639)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5BP0 ALI 110639, Wireless 9-1-1 Administration	$178,168	$298,794	$298,794
% change	--	67.7%	0.0%

This item supports collection of wireless 9-1-1 charges by the Department. Revenue is from 1.0% of receipts from a charge of 25¢ per month on each wireless telephone number of a wireless service subscriber with an Ohio billing address.

C1:10: Casino Tax Administration (ALI 110637)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5JM0 ALI 110637, Casino Tax Administration	$87,500	$125,000	$125,000
% change	--	42.9%	0.0%

This item supports administration of the 33% tax on gross casino revenue. Revenue is from 1% of the 3% of casino tax receipts transferred to the Casino Control Commission Fund in July, October, January, and April.

C1:11: Municipal Income Tax Administration (ALI 110605)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5N50 ALI 110605, Municipal Income Tax Administration	$130,642	$200,000	$200,000
% change	--	53.1%	0.0%

This item is used to pay TAX's cost to administer the municipal income tax on business net profits, for businesses that elect to file with the Department, as well as to pay TAX's costs to administer the municipal income tax on electric light and local exchange telephone companies. The Department distributes amounts owed to municipal corporations monthly. Revenues to Fund 5N50 for TAX's costs for administration are from 0.5% of municipal net profit tax collections and 1.5% of taxes collected by the state on behalf of local governments from electric companies and telephone and telecommunications companies.

C1:12: Kilowatt Hour Tax Administration (ALI 110618)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5N60 ALI 110618, Kilowatt Hour Tax Administration	$28,750	$100,000	$100,000
% change	--	247.8%	0.0%

This item supports administration of the kilowatt-hour tax owed by self-assessing purchasers. Revenue is from an annual fee of $500 paid on each qualifying meter or location, paid by large commercial or industrial firms that register with the Department to pay the kilowatt-hour tax as self-assessors.

C1:13: Petroleum Activity Tax Administration (ALI 110643)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5NY0 ALI 110643, Petroleum Activity Tax Administration	$852,768	$1,000,000	$1,000,000
% change	--	17.3%	0.0%

This item supports TAX's administration of the tax on gross receipts of motor fuel suppliers. Revenue to the fund is from 1% of the balance, after payment of any refunds, in the Petroleum Activity Tax Fund (Fund R057) as of the last day of February, May, August, and November. The petroleum activity tax is levied at a rate of 0.65%.

C1:14: Motor Fuel Tax Administration (ALI 110622)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5V70 ALI 110622, Motor Fuel Tax Administration	$4,198,154	$6,000,000	$6,000,000
% change	--	42.9%	0.0%

This item supports TAX's administration of motor fuel taxes: 38.5¢ per gallon on gasoline and 47¢ per gallon on diesel fuel. Revenue to Fund 5V70, as provided in codified law (R.C. 5735.053), is from an amount each month not to exceed $^1/_{24}$ of the approved appropriation assigned to the fund for the biennium.

C1:15: Property Tax Administration (ALI 110623)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5V80 ALI 110623, Property Tax Administration	$3,954,749	$5,000,000	$5,000,000
% change	--	26.4%	0.0%

This item supports administration of property taxes, including real property tax equalization and taxes on personal property of public utilities. Funding for these costs in FY 2022 is to be from previously accumulated balances in Fund 5V80. A provision of H.B. 110 suspends during FY 2022 provisions of R.C. 5703.80 for transfers to the fund from the GRF and for reduction of the reimbursements to county treasurers from the GRF to compensate for loss of revenue from the 10% rollback of residential and agricultural real property taxes. These transfers and reductions were also suspended during FY 2018 through FY 2021 by provisions of H.B. 26 of the 132nd General Assembly and H.B. 166 of the 133rd General Assembly.

Most of the cash balance in Fund 5V80 is expected to be used in FY 2022, and transfers from the GRF to Fund 5V80 resume in FY 2023, as do reductions in payments to counties. R.C. 5703.80 provides for funding of property tax administration with 0.25% or less of the amount of the 10% rollback on residential and agricultural real property and 0.45% or less of the amount of taxes on public utility tangible personal property, limited to costs to administer these taxes. H.B. 26 reduced these percentages. Previously, balances accumulated in Fund 5V80 as revenue increased due to an increase in pipeline activity subject to the tax on public utility tangible personal property, according to TAX, while organizational changes reduced funding needed for property tax administration.

C1:16: Cigarette Tax Enforcement (ALI 110614)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
6390 ALI 110614, Cigarette Tax Enforcement	$1,384,142	$1,450,000	$1,450,000
% change	--	4.8%	0.0%

This item supports enforcement of cigarette and tobacco tax laws. The line item is funded from 100% of wholesale cigarette license application fees ($1,000 annually per place of business), 60% of retail cigarette license application fees ($125 annually per place of business), and a $25 fee to transfer a wholesale dealer cigarette license to a place of business other than that designated on the license. Enforcement costs are also paid from GRF line item 110404, Tobacco Settlement Enforcement.

C1:17: Local Excise Tax Administration (ALI 110615)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
6880 ALI 110615, Local Excise Tax Administration	$346,621	$500,000	$500,000
% change	--	44.2%	0.0%

This item supports the Department's administration, including auditing and enforcement, of local taxes in Cuyahoga County on cigarettes, beer, wine, and mixed beverages. Revenue to the fund is from a 2% tax on these sales. Cuyahoga County voters approved local option excise taxes on these products beginning August 1, 1990, with the tax revenue used to pay debt service on bonds issued for the construction of professional sports facilities. Part of the revenue from the tax on cigarettes goes to the regional arts and cultural district. Provisions of H.B. 562 of the 127th General Assembly prevent other counties from levying such taxes.

Category 2: Revenue Distribution

This category of appropriation line items provides for the distribution of revenue to parties as specified in law. This Revenue Distribution category within TAX's budget, Section 409.10 of H.B. 110, is separate from the State Revenue Distributions portion of H.B. 110, Sections 387.10 and 387.20, which is briefly discussed below.

C2:1: Tax Refunds (ALI 110635)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
4250 ALI 110635, Tax Refunds	$2,622,630,292	$2,179,769,300	$2,179,769,300
% change	--	-16.9%	0.0%

This item supports payment of refunds of taxes or fees for which amounts in excess of those owed have been paid. Amounts in this line item are by far the largest in TAX's budget. Receipts of the Tax Refund Fund are transferred from current receipts of the same tax or fee for which the refund arose. Any additional amounts needed to pay required refunds are appropriated by the budget bill. The budget act explicitly authorizes the Tax Commissioner to adjust the amount of a state tax refund multiple times before issuing a final refund determination in response to the refund requestor's submission of additional information following notice of the Commissioner's preliminary determination.

C2:2: Vendor's License Application (ALI 110631)

Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
5CZ0 ALI 110631, Vendor's License Application	$626,250	$380,000	$380,000
% change	--	-39.3%	0.0%

This item distributes $25 vendor license fees for each place of business collected on behalf of county auditors back to the counties. The fees are distributed monthly to each county. Any additional amounts needed to make required payments are appropriated by the budget bill.

C2:3: Tax Distributions (ALI 110611)

Fund/ALI		FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
R010 ALI 110611, Tax Distributions		$689	$25,000	$25,000
	% change	--	3,530.7%	0.0%

This line item functions as a holding account for motor fuel surety bonds and sales tax payments when the proper disposition of the payment is uncertain. The line item also temporarily holds money from checks that include payment for more than one purpose, such as sales tax and employers' workers' compensation premiums. Disbursements from the fund vary greatly from year to year, depending on the volume of such payments.

C2:4: Miscellaneous Income Tax Receipts (ALI 110612)

Fund/ALI		FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
R011 ALI 110612, Miscellaneous Income Tax Receipts		$0	$500	$500
	% change	--	N/A	0.0%

This line item functions as a temporary holding account when Ohio personal income tax payments are deposited which cannot be posted correctly at the time of receipt.

State Revenue Distributions

Each ALI listed in the State Revenue Distributions (RDF) portion of the budget, Sections 387.10 and 387.20 of H.B. 110, is administered by a state agency, but the funds are not included as part of the budget of the administering agency. The administering state agency does not spend this money on operations, but only distributes it as specified in state law.

Though specific dollar amounts are appropriated for each ALI in the RDF section, uncodified language in the budget act provides for additional appropriation for these line items if needed to make required payments. The section also provides for transfers of money from the GRF to the School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) of any amounts needed to make required payments, and for temporary transfers between the GRF and those funds.

The table below summarizes actual FY 2021 spending and appropriated amounts for RDF ALIs by fund group.

FY 2022-FY 2023 RDF Appropriations by Fund Group			
Fund/ALI	FY 2021 Actual	FY 2022 Appropriation	FY 2023 Appropriation
General Revenue	$1,805,991,231	$1,834,400,000	$1,854,000,000
Revenue Distribution	$2,493,347,594	$2,490,823,236	$2,532,075,288
Fiduciary	$3,981,868,336	$3,966,740,000	$4,140,840,000
Holding Account	$55,806,036	$56,100,000	$56,100,000
Total	$8,337,013,197	$8,348,063,236	$8,583,015,288
% change	--	0.1%	2.8%
GRF % change	--	*1.6%*	*1.1%*

The majority of these RDF appropriations are distributed to counties, school districts, municipalities, transit authorities, and libraries. For example, the largest RDF line item (ALI 110963, Permissive Sales Tax Distribution, $6.0 billion in total over the two years of the biennium) is used by the Tax Commissioner to distribute revenue from county and transit authority permissive sales taxes to the county or transit authority of origin, and also to distribute revenue from Cuyahoga County's excise taxes on cigarettes and alcoholic beverages, collected by TAX on behalf of the county. Two GRF line items are used by the Department of Education (ALI 200903, Property Tax Reimbursement – Education, $2.4 billion) and by TAX (ALI 110908, Property Tax Reimbursement – Local Government, $1.3 billion) to reimburse school districts and local governments for property tax revenue losses from the 10% and 2.5% property tax rollbacks and the homestead exemption. The third largest RDF line item (ALI 110960, Gasoline Excise Tax Fund, $1.8 billion) is used to distribute money from motor vehicle fuel taxes to counties, cities, villages, and townships for road and bridge maintenance.[1] Three RDF ALIs (110633, 110634, and 110636) are used by TAX to distribute casino tax revenue to counties, school districts, and host cities.

Enacted H.B. 110 includes uncodified language directing that 1.7% of GRF tax revenue be credited to the Public Library Fund (PLF) in FY 2022 and FY 2023; this provision continues uncodified language in the main operating budget act for the 132nd General Assembly, and increases the PLF allocation from 1.66% in codified law. This provision is expected to increase revenue through line item 110965 to public libraries and local governments statewide by about $11 million in each of FY 2022 and FY 2023, compared to codified law. Amounts retained by the GRF are reduced by these same amounts. Most revenue distributed from the PLF is provided to public libraries with a small portion to local governments. In contrast, an increase to 1.68% of total GRF tax revenue that was credited to the Local Government Fund (LGF) in the FY 2020-FY 2021 biennium was not continued in H.B. 110, so the LGF share of GRF tax revenue reverts in the current biennium to the percentage in codified law, 1.66%.

If cash in the Municipal Net Profit Tax Fund (Fund 5VR0) is insufficient to meet monthly distribution obligations for taxes collected by the Department on behalf of municipal corporations during FY 2022 and FY 2023, Section 387.20 of H.B. 110 requires the Tax Commissioner to certify to the Director of Budget and Management the amount of additional cash needed to satisfy those obligations. The Commissioner is to submit a plan to the Director requesting transfer of the needed cash from one or more of the Municipal Income Tax Administrative Fund (Fund 5N50), Local Sales Tax Administrative Fund (Fund 4350), General School District Income Tax Administrative Fund (Fund 4380), Motor Fuel Tax Administrative Fund (Fund 5V70), Property Tax Administrative Fund (Fund 5V80), or GRF. The plan is to include a proposed repayment schedule to reimburse those funds for any cash so transferred. If sufficient cash is available, the Director may transfer the cash to Fund 5VR0 in accordance with the plan or as the Director otherwise determines, and may transfer cash from Fund 5VR0 to reimburse the funds from which cash was transferred.

H.B. 110 specifies that in FY 2022 through FY 2026, any school district that has a nuclear power plant located within its territory is to receive the same tangible property tax replacement payment amount (under R.C. 5709.92) as in FY 2017, notwithstanding any provision of law to the contrary. Benton-Carroll-Salem Local School District in Ottawa County will receive an additional $828,538 in the FY 2022-FY 2023 biennium as a result of this provision; Perry Local School District in Lake County will receive an additional $796,542. Additional amounts will be paid to the school districts in FY 2024 through FY 2026. The act also requires, through FY 2026, that the tangible personal property (TPP) supplement payment amount paid to joint fire districts that have a nuclear power plant located in their territory should be not less than the amount paid to them in FY 2017. This provision will increase payments to Perry Joint Fire District in Lake County by $255,092 in FY 2022 and $306,111 in FY 2023, and additional amounts in the following three

[1] H.B. 74 requires the Director of Budget and Management to transfer cash, in equal monthly increments totaling $156,450,408 in FY 2022 and $158,240,592 in FY 2023, from the Highway Operating Fund (Fund 7002) to the Gasoline Excise Tax Fund (Fund 7060) and requires the transferred amounts be distributed to municipal corporations, counties, and townships.

years. The local fire department at Ohio's other nuclear power plant, in Ottawa County, is the Carroll Township fire department, not a joint fire district.

The State Revenue Distributions section of the budget includes 29 ALIs from 28 funds. For additional information on each RDF ALI, please refer to the RDF appropriation spreadsheet attached to this Greenbook, and to the Catalog of Budget Line Items (COBLI) on the Ohio Legislative Service Commission website, https://www.lsc.ohio.gov/.

Analysis of enacted budget – tax provisions

Introduction

The enacted budget contains numerous provisions affecting taxes. Some of the taxes discussed below are deposited in the GRF. The GRF taxes are the sales and use tax, state personal income tax, cigarette and other tobacco products taxes, domestic and foreign insurance taxes, certain utility taxes (kilowatt-hour excise, public utility excise, and natural gas distribution or Mcf taxes), the financial institutions tax, alcoholic beverage and liquor gallonage taxes, and petroleum activity tax. Commercial activity tax receipts are deposited in the GRF and two other funds, with a GRF share of 85%. Revenue effects of policy changes are reported in the following paragraphs on an all funds basis unless otherwise indicated.

Tax law changes affecting revenue to any of these GRF taxes would also affect revenue to the LGF and PLF. In the current biennium, the changes to GRF taxes affect transfers to the LGF (1.66%) and the PLF (1.70%), with the GRF retaining the rest of revenue increases or decreases (96.64%). Certain provisions of H.B. 110 that redirect spending of specified tax revenues are covered in the RDF section of this Greenbook, above, rather than in this tax provisions section. The increase in the share of GRF taxes allocated to the PLF is discussed in the RDF section, as is a provision increasing tangible personal property tax replacement payments to specific entities.

Most of the discussion that follows pertains to changes made to tax law by H.B. 110. At the end of this section, changes to tax law made by this biennium's transportation budget, H.B. 74, are discussed. Not included in this tax provisions summary are appropriation language provisions that, in most instances, are essentially unchanged from one main operating budget act to the next.

State income tax

H.B. 110 reduces tax rates by 3% in tax year (TY) 2021 and thereafter, except that it eliminates the top bracket and further reduces the tax rate to 3.99% (from 4.797% and 4.413% in the previous top and next-to-top brackets), for nonbusiness taxable income of $110,650 or more. It increases the income level at which the lowest tax bracket begins from $22,150 in TY 2020 to $25,000 in TY 2021. Nonbusiness taxable income below these levels incurs zero tax liability. The tax rate for income above these levels, up to $44,250, was reduced from 2.850% to 2.765%. The budget act suspends inflation indexing of brackets in TY 2021 only, and of exemption amounts in TY 2021 and TY 2022. LBO estimates that all funds revenue losses would total $968 million in fiscal year 2022 and $816 million in fiscal year 2023, including a one-time revenue loss in fiscal year 2022 of $155 million from reduction of withholding rates. The amount and timing of the one-time revenue loss depend on decisions made by the Tax Commissioner.

The main operating budget act allows an income tax deduction, beginning TY 2026, for capital gains for taxpayers with an ownership interest in a business. It provides that the deduction equals the lesser of (1) the capital gain or (2) a percentage of the business' payroll over a specified period, based on the taxpayer's proportionate interest in the business. It allows the deduction to taxpayers who either (1) materially participated in a business that was headquartered in Ohio for the five preceding years or (2) made a venture capital investment of at least $1 million in such a business. It provides that the deduction based on the business' payroll is based on payroll as defined for income tax withholding purposes, excluding amounts paid to the taxpayer or specified relatives of the taxpayer. This provision would result in revenue losses beginning in FY 2027. Revenue losses likely would vary considerably from year to year. The Department of Taxation estimates annual revenue losses ranging from the upper tens of millions of dollars to the lower to middle hundreds of millions of dollars.

H.B. 110 authorizes an income tax deduction, for taxable years beginning in and after 2026, for all or a portion of capital gains received by investors in certain Ohio-based "venture capital operating companies" (VCOCs) certified by the Director of Development. The act requires that a VCOC, in order to qualify for certification, must manage, or have capital commitments of, at least $50 million in active assets and must have residents of Ohio constitute at least two-thirds of its managing and general partners. It limits deductibility of gains to those that occur during the period for which the company is certified as an Ohio VCOC. It provides that the deductions equal 100% of the capital gains received by taxpayers in the taxable year from qualifying interests in Ohio VCOCs attributable to the companies' investments in Ohio businesses and 50% of the capital gain received by taxpayers from qualifying interests in Ohio VCOCs attributable to investments in all other businesses. LBO staff is uncertain about the total amount of capital gains that will be generated by VCOCs after certification by the Director of Development. However, income tax revenue losses of tens of millions of dollars per year beginning in FY 2027 appear plausible, with substantial variability from year to year.

The main operating budget act authorizes the following two nonrefundable income tax credits for taxable years beginning on or after January 1, 2021: (1) a credit of up to $250 for education expenses of items used directly for home school instruction for one or more of the taxpayer's dependents who are home schooled for the school year and (2) a credit of up to $750 for cash donations made to nonprofit scholarship granting organizations (SGOs) for primary and secondary school students that prioritize awards to low-income students and are certified by the Attorney General. The Department of Taxation is required to post on its website a list of SGOs approved for this program. Investors in a pass-through entity that files a composite return on the investors' behalf would be allowed to claim the credit for the entity's donation. A state personal income tax revenue loss in the tens of millions of dollars from these provisions appears likely.

H.B. 110 authorizes a nonrefundable income tax credit for tuition paid for one or more dependents to attend a nonchartered, nonpublic school (i.e., a private school that is not chartered by the State Board of Education). Eligibility is limited to taxpayers whose total federal adjusted gross income (FAGI), or the total FAGI of the taxpayer and spouse if filing jointly, is under $100,000. The maximum allowable credit is $500 if the taxpayer's income is under $50,000 and $1,000 if the taxpayer's income is between $50,000 and $100,000. All funds state income tax revenue losses possibly ranging to low single-digit millions of dollars appear plausible based on a Department of Taxation estimate for a similar plan.

H.B. 110 requires the Department of Job and Family Services (JFS) to report and remit state income tax withholding on unemployment compensation on a monthly basis instead of at the frequencies prescribed for employer withholding, which vary with overall amounts of accumulated withholdings. The act amends S.B. 18 of the 134th General Assembly to delay by one year, from 2022 to 2023, the date by which JFS must begin to accept state income tax withholding requests from unemployment compensation recipients. This provision will not change amounts of tax owed but is likely to change the timing of relatively small amounts of personal income tax receipts.

The main operating budget act reduces the amount of time by which the Director of Budget and Management must void any aged warrant that draws on the state treasury for income tax refunds from two years to 90 days, which is consistent with the time for voiding all other warrants drawn from the state treasury. This change will result in a one-time gain of perhaps as much as $10 million or more from taxpayers that do not cash their income tax refund checks between 91 days and two years after the warrant is issued.

A provision of H.B. 110 increases, from $1 million to $2 million, the limit on the amount of credits that may be awarded to an individual during a fiscal biennium under federally authorized Ohio opportunity zone law. This change appears to have no fiscal effect, as a $50 million per fiscal biennium limit on issuance of tax credit certificates in current law remains unchanged by the act.

Sales and use tax

H.B. 110 exempts employment services (providing personnel to perform work under the supervision and control of the purchaser) and employment placement services (locating employment for a job seeker or locating job candidates for an employer) from sales and use tax. These changes reduce sales tax revenue in FY 2022 to the state by $95.6 million and to counties and transit authorities by $25.6 million. They reduce sales tax revenue in FY 2023 to the state by $143.4 million and to counties and transit authorities by $38.5 million. These estimates are from the Department of Taxation.

The main operating budget act reinstates the sales and use tax exemption for sales of investment metal bullion and investment coins. This change applies to sales made on or after October 1, 2021. The exemption previously was repealed by H.B. 166 of the 133rd General Assembly. The change reduces state sales tax revenue by about $4.6 million in FY 2022 and $6.9 million in FY 2023. It reduces revenue from permissive county and transit authorities' sales taxes by about $1.1 million in FY 2022 and $1.7 million in FY 2023.

H.B. 110 authorizes county sales taxes levied to fund the construction, acquisition, equipping, or repair of a detention facility to additionally be used to fund the facility's operations. Continuing law authorizes counties, under certain circumstances, to levy up to a 0.5% sales tax for this purpose. This change may result in redirection of some funding raised by county sales taxes enacted for these purposes.

Commercial activity tax

H.B. 110 authorizes a commercial activity tax (CAT) exemption for Bureau of Workers' Compensation (BWC) dividends paid to employers, beginning with dividends paid in 2022. (S.B. 18 of the 134th General Assembly exempted dividends paid in 2020 and 2021.) This change will decrease yearly CAT receipts by an uncertain amount, dependent on BWC distributions to employers. CAT receipts are distributed to the GRF (85%), the School District Tangible Property Tax Replacement Fund (Fund 7047, 13%), and the Local Government Tangible Property Tax Replacement Fund (Fund 7081, 2%).

The main operating budget act authorizes various tax incentives for operators and certain suppliers of a development project that includes at least $1 billion in investment or creates at least $75 million in Ohio payroll (both indexed to inflation), and that meets other requirements, referred to as a "megaproject." To qualify for the enhanced tax incentives, the act requires such operators and suppliers to apply to the Director of Development. A megaproject supplier would exclude sales of tangible personal property to a megaproject operator from gross receipts subject to the CAT. Excluding certain receipts from taxation under the CAT would reduce revenue by undetermined amounts. In addition, the act increases the maximum period of time for which a Job Creation Tax Credit (JCTC) may be awarded by the Ohio Tax Credit Authority from 15 to 30 years for a business that is a megaproject operator or qualifying megaproject supplier. It also extends from 15 to 30 years the term of incentives available to operators and suppliers of megaprojects for property tax exemptions under the enterprise zone (EZ) and community reinvestment area (CRA) programs.

Kilowatt-hour tax

The main operating budget act clarifies the law exempting certain end users from the kilowatt-hour tax by specifying that the tax does not apply to an end user that (1) generates its own electricity primarily for its own consumption on the same premises, but that also provides excess electricity to other entities, or (2) generates its own electricity primarily for its own consumption at a facility that is located on property that is contiguous to the property on which the electricity is consumed, provided, in either case, the generation facility does not initially exceed the end user's necessary electricity needs. Currently, an end user is exempt if it uses self-generated electricity on the same site where the electricity was generated. The act states that this provision is intended to clarify existing law. The Department of Taxation estimates that this change would reduce all funds revenue by approximately $2.6 million in FY 2022 and $3.9 million in FY 2023.

Estate tax

The main operating budget act makes administrative changes to the repealed estate tax and the fees allowed to officials and agents for collecting the tax. It provides that no estate tax is due for property first discovered after December 31, 2021. Ohio's estate tax was repealed effective January 1, 2013, but the tax continues to apply to newly discovered property of decedents who died before that date. The potential revenue loss from changes made by H.B. 110 is likely negligible. Estate tax receipts have continued to trickle in since the tax was repealed. In FY 2020, receipts were about $0.5 million; about $0.1 million was deposited into the GRF and $0.4 million was the share to local governments.

Beer, wine, liquor taxes

H.B. 110 makes permanent the 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund (Fund 4960), which is used to support and promote the Ohio grape and wine industry.[2] Fund 4960 received approximately $1.2 million from wine tax proceeds in FY 2020. Receipts from the wine tax are otherwise credited to the GRF.

The main operating budget act expands the tax exemption related to wine production to S-1 and S-2 permit holders. It eliminates the tax credit for small breweries (A-1c permit holders) for purposes of the state beer tax that applies to the first 9.3 million gallons of annual production of beer sold and distributed in Ohio, and instead establishes a tax exemption for A-1c permit holders that only produce up to 9.3 million gallons or less of beer per calendar year. These changes may result in a GRF tax revenue loss.

H.B. 110 requires the Tax Commissioner, beginning February 1, 2022, to verify annually that a liquor permit holder is current on its payments of resort area and tourism development district gross receipts taxes, which are levied by certain subdivisions. This provision of the act may increase resort areas and tourism development districts receipts by a minimal amount.

Property taxes

As discussed above, in the section on tax provisions affecting the CAT, the main operating budget act authorizes various tax incentives for an operator or supplier of a megaproject. These tax incentives include extension from 15 to 30 years of the term of incentives available to operators and suppliers of megaprojects for the JCTC and for property tax exemptions under the enterprise zone (EZ) and community reinvestment area (CRA) programs. Enhancement of property tax exemptions under the EZ or CRA programs would reduce revenue to schools and other local governments.

H.B. 110 modifies the eligibility criteria for an existing tax exemption for property used to provide housing to persons with developmental disabilities. One of the requirements for such tax exemption is that the charitable organization that owns the property receive funding from one or more county boards of developmental disabilities. The act alternatively allows the institution to qualify for the tax exemption by contracting with an entity that receives at least a portion of its funding from one or more county boards of developmental disabilities. The contracted entity must perform services for individuals who lease the property for use as housing. Those services must assist in the institution's primary purpose to acquire, develop, lease, or otherwise provide suitable housing to individuals with developmental disabilities. The exemption is limited to only the portion of the property used by residents who are eligible for certain Medicaid-funded services administered by the Department of Developmental Disabilities, and to common areas used by all residents. This provision exempts additional property from taxation, and will result in revenue losses for school districts and local governments.

H.B. 110 imposes a charge against real property or manufactured or mobile homes receiving the homestead exemption if the property owner or occupant failed to notify the county auditor that the owner or occupant no longer qualified for the exemption, as required under continuing law. It specifies the amount of the charge equals the tax savings, plus interest, for each tax year that the owner or occupant did not qualify for the exemption. This provision

[2] Several prior budgets contained this provision in uncodified law, extending the earmark every two years; this provision makes the 2¢ per-gallon earmark permanent.

increases local property tax receipts by an indeterminate amount on behalf of erroneously claimed homestead exemptions later recovered by the applicable county. Although existing law provides for the recoupment of the owner occupancy reduction (i.e., 2.5% property tax rollback) if the auditor later discovers that the owner was not entitled to the reduction and failed to notify the auditor, there was no similar reference in prior law for the recoupment of a homestead exemption. Nor was there any reference to an auditor's ability to invalidate a prior year's application or continuing application retroactively.

The main operating budget act requires the owner of tax-exempt property to notify the county auditor if the property ceases to qualify for exemption so that the auditor may return the property to the tax list. It modifies the manner in which a property owner may appeal a recoupment charge for failing to notify the county auditor that the property no longer qualifies for exemption, by requiring the owner to file an exemption application with the Tax Commissioner, instead of filing an administrative complaint with the county board of revision. It imposes a charge on property whose owner fails to give such notice equal to the tax savings for up to the five preceding years that the property did not qualify for exemption. These changes may result in an increase, likely minimal, for charges imposed for failure to give the required notice.

H.B. 110 authorizes a municipal corporation or a township to impose permanently, with voter approval, a combined levy for fire and emergency medical services (EMS) and police services. Under continuing law, separate police and fire/EMS levies may be levied for a continuing period, and under prior law combined levies could be levied for five or fewer years. This provision allows another option for funding local police and fire/EMS services, reducing the number of times levies would need voter approval.

The main operating budget act modifies the law governing tax increment financing (TIF) districts and downtown redevelopment districts (DRDs) to (1) allow subdivisions to use TIF or DRD service payments for off-street parking facilities, and (2) allow municipalities that create certain types of TIFs the discretion to designate the beginning date of the TIF exemption, rather than having the exemption automatically begin on the effective date of the designating ordinance. This latter discretion was already allowed to subdivisions creating other types of TIFs and DRDs. This law change applies only to new proceedings and ordinances and pending appeals. This provision allows political subdivisions greater flexibility in implementing TIFs and DRDs, but does not otherwise appear to affect property tax revenue.

The main operating budget act allows a fraternal organization operating under a national governing body that has been operating in Ohio for at least 85 years to qualify for the existing property tax exemption for certain of its property. In prior law, the exemption was available only to fraternal organizations operating under a state governing body and meeting other requirements. This provision of the act will result in loss of property tax revenue to school districts and local governments. A Department of Taxation official reports that one beneficiary would be the Fraternal Order of Orioles. This organization has nine locations in Ohio, for which the annual revenue loss would be about $44,000. LBO does not know if other organizations might qualify for this exemption.

H.B. 110 requires the Director of Natural Resources to reimburse school districts and other taxing units annually for a portion of foregone property tax revenue resulting from the state's acquisition of certain Department of Natural Resources (DNR) land acquired beginning in 2018. It specifies that the reimbursement payments equal 2.5% of the land's unimproved taxable value for the tax year in which DNR acquired the land. It requires that 60% of payments be allocated to school districts and the remaining 40% be allocated to other taxing units. It requires the Director to draw the payments from the State Park Fund (Fund 5120), the Wildlife Fund (Fund 7015), or both funds. These provisions appear to apply only to DNR property that encompasses the Jesse Owens State Park and Wildlife Area and Appalachian Hills Wildlife Area in Morgan, Muskingum, and Noble counties. DNR will incur new costs totaling hundreds of thousands of dollars per year to make the required payments.

The main operating budget act temporarily extends, for TY 2020 to TY 2024, the charitable use property tax exemption to any parking garage owned and operated by a qualifying tax-exempt nonprofit arts institution, or a limited liability company whose sole member is such an institution, but only if that owner-operator does not currently owe any delinquent property tax. It allows the owner-operator of that parking garage to file a special exemption application for TY 2020 to allow the parking garage to qualify for the tax exemption for that tax year and to receive a refund of any taxes paid. This provision will result in loss of property tax revenue from a parking garage in Montgomery County, and may apply to other qualifying real property.

H.B. 110 temporarily exempts, for TY 2020 to TY 2024, real property (1) located in a county having a population greater than 500,000 but less than 540,000 (Montgomery County) and (2) owned and operated by a qualifying tax-exempt nonprofit arts institution, or a limited liability company whose sole member is such an institution, from special assessments levied by a municipality, special improvement district, or conservancy district, but only if that owner-operator does not currently owe any delinquent special assessments. This provision of the act requires the county auditor and treasurer to refund any special assessments already paid for a tax year in which such real property qualifies for the exemption, i.e., TY 2020. The provision will result in loss of revenue from special assessments on qualifying property located in Montgomery County.

H.B. 110 establishes a temporary procedure by which a 501(c)(3) organization that acquired property from a school district may apply for a tax exemption and the abatement of more than three years of unpaid property taxes, penalties, and interest due on the property, provided it currently qualifies for the charitable use exemption. Under continuing law, property is tax-exempt if it is used exclusively for a charitable purpose, but such property may not be exempted if more than three years' worth of taxes remain unpaid. This provision will reduce taxes due from a property owner in Stark County and possibly elsewhere on any other qualifying property.

H.B. 110 extends, by two years, the deadline by which the owner or lessee of a qualified renewable energy project may apply for a property tax exemption. This extension may result in revenue losses to school districts and other political subdivisions, though revenue losses to counties are permissive in certain cases, as explained below. The provision applies to prospective renewable energy (e.g., wind and solar) facilities that will newly obtain the property tax exemption for the two-year period TY 2024-TY 2025. Once a renewable energy project qualifies for this certification, it is exempt from taxation in all ensuing tax years. Since this exemption was originally enacted in 2010, the Ohio Department of Development has certified more than 60 renewable energy projects. The property tax exemption applies to real and tangible personal property used by the energy facility. If the nameplate capacity of a qualified energy project is 20 megawatts (MW) or greater, the local board of county commissioners must approve its tax-exempt status. In return for this approval, the owner or lessee of an energy project must make a payment in lieu of taxes (or "PILOT") ranging between $6,000 and $9,000 per each MW of nameplate capacity.

Municipal income tax

The main operating budget act amends Section 29 of H.B. 197 of the 133rd General Assembly to provide that a temporary municipal income tax withholding rule in effect during the Governor's COVID-19 emergency declaration extends through December 31, 2021, regardless of when the declaration ends. (Under prior law, the rule was set to expire 30 days after the emergency declaration expired; under the temporary rule, employers withhold municipal income taxes to an employee's principal place of work even though the employee may be working from home or another location due to the emergency declaration.) The temporary rule applies beginning on and after January 1, 2021, through December 31, 2021, to an employer's tax withholding obligations and net profit calculation, but not to an employee's actual tax liability. A municipal tax administrator is prohibited from assessing tax, penalty, or interest against an employer for the failure to withhold municipal income tax from an employee's wages to the extent the employer withheld taxes to the employee's principal place of work during the period of time the temporary withholding rule is in effect. If an employee requests a refund of municipal income taxes withheld pursuant to the temporary rule, the municipal tax administrator may not require any documentation from the employer to process the request other than a statement verifying that the employer has not refunded any withholding to the employee and the number of days the employee worked at the employee's principal place of work.

This provision clarifies the manner in which an employee's municipal corporation of residence may treat the employee's qualifying wages as income, for 2021 only, if the tax rate of the municipal corporation of residence is higher than that of the municipal corporation where the employee's principal place of work is located. The amendment also clarifies the manner in which an employee's municipal corporation of residence may treat the employee's qualifying wages as income, for 2021 only, for the purpose of determining the amount of tax if municipal credits to the employee are less than 100% of the taxes paid to another municipal corporation. These changes would likely result in an undetermined revenue loss for certain municipalities. For a number of municipalities, this revenue loss could be significant. The changes may increase the cost to certain municipalities of processing requests for refunds and other administrative costs.

H.B. 110 requires the Attorney General (AGO) to participate in the federal Treasury Offset Program (TOP) for the collection of past due municipal income taxes to the extent that such taxes qualify for the program. TOP is a program in which state and federal tax administrators cooperate to collect delinquent taxes. The act specifies that the Attorney General is the tax administrator with respect to past due municipal income taxes that are certified to the Attorney General for collection solely for the purpose of qualifying for the TOP. Adding municipal income taxes to the program will increase collections, but likely not by a substantial amount; participation is voluntary for municipalities. Since the state already participates in TOP, additional costs, including AGO costs, would be minimal.

Lodging tax

The main operating budget act authorizes a county having a population greater than 300,000 and less than 350,000, and that already levies a 3% lodging tax (Lorain County) to levy, subject to voter approval, an additional lodging tax at a rate of up to 3% for the purposes of constructing, maintaining, operating, and promoting a convention facility. The county's 3% lodging tax raised about $705,000 in 2018, according to Department of Taxation data. An additional 3% might raise a similar amount, depending on other influences on demand for lodging, possibly somewhat less to the extent that demand for lodging is responsive to the higher total effective price resulting from the tax increase.

H.B. 110 authorizes a county that has a 2000 population between 130,000 and 150,000, and a city with a 2000 population of more than 50,000 (Clark County), to increase its existing Convention Facilities Authority lodging tax rate from 3% to 4%. Based on Department of Taxation data, a one percentage point increase in Clark County's lodging tax might raise about $190,000 per year, possibly somewhat less to the extent that demand for lodging is responsive to the higher total effective price resulting from the tax increase.

Other tax law provisions

The main operating budget act prohibits local governments from imposing a tax or fee based on the gross receipts of medical marijuana businesses, or one that is the same or similar to a tax or fee imposed by the state, unless explicitly authorized by the Revised Code. This provision eliminates a potential source of revenue for political subdivisions.

H.B. 110 makes changes to the existing insurance premiums tax credit for investments in rural business growth funds. It increases by $45 million the amount of tax credits that may be awarded by the Department of Development. The current tax credit program has already exhausted its previous $45 million credit limit. Under continuing law, credits are claimed in four annual installments following a three-year holding period after the investment is certified as tax-credit eligible. The act modifies the eligibility criteria and investment criteria for the new credit allocation as follows: (1) for businesses located in a border county, it decreases the percentage of the business's employees who must reside in Ohio or, alternatively, the percentage of the business's payroll that must be paid to Ohio residents in order for investments in that business to be eligible for the credit, (2) it increases by one year the time over which the rural business growth fund must invest its contribution in a way that would qualify for the credit, (3) it creates tiers of rural counties, based on population, where eligible investments must occur, and (4) it adjusts the amount of credit-eligible contributions that may be invested in a single business. The act authorizes the Department to begin accepting applications from growth funds to qualify for the new credit allocation beginning 30 days after the provision's 90-day effective date. These changes will have no revenue impact for the FY 2022-FY 2023 biennium. The tax credits created in this amendment and associated revenue losses will first occur in FY 2024.

The main operating budget act modifies an existing insurance premium tax credit for capital contributions to the construction of a transformational mixed-use development (TMUD) by (1) extending the sunset date for certifying new TMUD projects by two years, to June 30, 2025, and (2) setting the maximum annual credit allotment for FY 2024 and FY 2025 at $100 million (the same limit that applies under current law to FY 2020 to FY 2022, though no credits have been issued in FY 2020 or FY 2021). The extension has no fiscal effect in the current biennium. Potential revenue loss associated with the tax credit may occur in future fiscal years.

Tax credits

Job creation/retention

H.B. 110 requires the Tax Credit Authority and Director of Development, when recommending and approving job retention tax credit (JRTC) applications, to give priority to applications that meet one or more of the following criteria: (1) the applicant has not received a JRTC or JCTC for the same location within the preceding five years, (2) the applicant is not currently receiving a JRTC or JCTC, (3) the applicant's facility has been operating in Ohio for the preceding ten years, (4) the project will involve more than routine maintenance, and (5) the applicant intends to use materials and equipment sourced from Ohio businesses in the project. These changes will have no fiscal effect.[3]

The main operating budget act allows any business that receives the JCTC to include work-from-home employees in its annual reporting of employment and payroll, thus allowing those employees' payroll to count towards computing and verifying the credit, beginning with reports filed for 2020. Prior law only allowed JCTC recipients whose applications were approved after September 29, 2017, to include work-from-home employees. This change potentially prevents a loss of approved credits for taxpayers with JCTC agreements authorized prior to September 29, 2017, and whose employees were or may be required to work from home.

Motion picture

The main operating budget act revokes the eligibility of "production contractors" (persons other than the production company that are involved in a motion picture or Broadway theatrical production) for the motion picture tax credit. Continuing law permits a refundable tax credit that may be claimed for Ohio production expenditures by eligible productions. The total amount issued may not exceed $40 million per fiscal year, a limit unchanged by the budget act, but the latest Tax Expenditure Report estimated that the credit would reduce GRF receipts between $25 million and $30 million per year over the FY 2022-FY 2023 biennium. The motion picture tax credit can be taken against the income tax, the financial institutions tax, and the commercial activity tax. The reduction of eligibility for the motion picture tax credit by the act reduces the value of prospective credits, but because the fiscal year limit on issuance of credits is unchanged, this provision is expected to have minimal effect on revenue.

Technical changes

A number of tax provisions in H.B. 110 were technical or corrective in nature, or appeared to have no fiscal effect. These provisions are listed below.

[3] The JCTC and JRTC may be claimed against the CAT, the petroleum activity tax, the personal income tax, the financial institutions tax, the domestic and foreign insurance taxes, and the corporate franchise tax (repealed in 2014), as specified in R.C. 122.17(B) and 122.171(B).

Personal income tax

The main operating budget act:

- Clarifies that income not subject to tax based on a reciprocity agreement between Ohio and another state may be deducted on a taxpayer's annual return. (Those agreements allow nonresidents to be exempted from Ohio's income tax on income earned or received as long as that other state provides the same tax treatment for Ohio residents.)
- Clarifies that any income tax withheld, including from a taxpayer's wages, lottery and casino winnings, or retirement income, entitles the person who is required to report such income on the person's tax return (the "ultimate recipient" of the income) to a credit for such amounts on that taxpayer's annual return. States that the provision is intended to clarify existing law and applies to taxable years beginning on and after January 1, 2016.
- Amends references in the state's income tax law to the federal "targeted jobs" tax credit, which has been renamed in federal law as the "work opportunity" tax credit.
- Removes a requirement that state income taxpayers claiming the business income deduction (BID) indicate on their annual returns the North American Industry Classification System (NAICS) code of each business or professional activity from which that income is derived. (This reporting requirement was originally imposed by S.B. 26 of the 133rd General Assembly.)
- Declares that the state of Ohio does not intend to impose tax on unemployment compensation reported to a person whose identity was fraudulently used by a third party to collect unemployment compensation. Requires publication of information about such fraud on websites of the Department of Job and Family Services and the Department of Taxation until June 2023. (This declaration and requirement will have no fiscal effect. The Internal Revenue Service instructs taxpayers who are unable to obtain a timely, corrected Form 1099-G for unemployment benefits from states to file an accurate tax return, reporting only the income they received. Taxpayers are not expected to include unemployment benefits they did not actually receive because of identity theft.)
- Explicitly authorizes a personal income tax deduction for all railroad retirement benefits that are exempt from state taxation under federal law.
- Reduces, from $1 million to $250,000, the amount a nonprofit corporation must spend granting wishes of minors with life threatening illnesses to qualify for funds from the Wishes for Sick Children Income Tax Contribution Fund (Fund 5SH0). (The change may result in additional nonprofit entities becoming eligible to receive funds, but it will have no fiscal effect as the income tax refund contribution check-off program is funded by gifts from taxpayers of a portion of their income tax refunds as well as by other gifts from persons directly to the fund.)

Sales and use tax

H.B. 110 repeals provisions of use tax law that would have applied only in the event that an act of Congress authorized states to compel "remote sellers" to collect and remit use tax. Following a U.S. Supreme Court decision in 2018 which allowed states to require collection and remittance of use tax by remote sellers, H.B. 166 of the 133rd General Assembly enacted language implementing the Court's decision. The Court's decision made Congressional action unnecessary, which made obsolete the provisions of use tax law repealed by H.B. 110.

Commercial activity tax

H.B. 110 requires the calculation of the annual minimum tax under the CAT applicable to the first $1 million in taxable gross receipts to be based on taxable gross receipts reported in the preceding, rather than the current calendar year. It clarifies the reporting requirement and reduces the process of reconciling actual tax paid with what was actually owed, as prior law demanded taxpayers estimate future gross receipts.

Property taxes

H.B. 110 makes the following changes to the procedure for creating certain joint economic development districts (JEDDs): (1) Modifies the notice and opt-out procedures for certain property that (a) is located within one-half mile of the JEDD or (b) receives water or sewer services under certain agreements from a municipality that is not part of the JEDD and (2) requires that the JEDD contract include certain information relating to the district's public utility infrastructure, if the proposed JEDD would include any property in which any non-JEDD party would provide water or sewer services.

Wireless 9-1-1 charge

The main operating budget act requires the monthly disbursements made by the Tax Commissioner from the Wireless 9-1-1 Government Assistance Fund (Fund 7093) to county treasurers to be made in the same proportion distributed to that county in the corresponding month of the previous calendar year, instead of the requirement in prior law that disbursements be based on the amounts disbursed in the corresponding months in 2013 made by the Public Utilities Commission of Ohio (PUCO). The act requires any shortfall in distributions resulting from the timing of funds received in a previous month to be distributed in the following month. Under prior law, the distribution requirement due to insufficient funds was based on reducing each county's share in proportion to the corresponding month in 2013 until the amount available in Fund 7093 is allocated, and such shortfalls must be remedied in the following month. This change is expected to have no fiscal effect. Total disbursements to counties in the latest year (2020) were identical to those made by PUCO in 2013.

Cross-reference corrections

The enacted budget made corrections to cross-references in statutes governing the income tax, the CAT, and the financial institutions tax. These corrections have no fiscal effect. Details can be found in the LSC bill analysis, or in the LSC comparison document.[4]

Vetoed tax provision of H.B. 110

H.B. 110 as passed by both houses of the legislature would have reduced the share of CAT revenue deposited into Fund 2280 from 0.65% to 0.5%. This change would have lowered the

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[4] The three corrections were items TAXCD30, TAXCD32, and TAXCD12 in the comparison document.

amount of funding available for administration of various taxes including the CAT by about $3.2 million to $3.3 million in each fiscal year of the current biennium. The Governor vetoed this provision, saying the funding reduction would hinder the Department of Taxation's ability to carry out its collection and enforcement functions. As noted above, although the veto keeps the percentage of CAT revenues paid into Fund 2280 at its prior level in codified law, appropriation amounts for ALI 110628 in H.B. 110 remain at the lower levels consistent with the smaller percentage.

Tax law changes in the transportation budget, H.B. 74

H.B. 74 authorizes the governing board of a regional transportation improvement project (RTIP) to levy a special assessment on real property located within a transportation financing district (TFD) if property owners agree to the assessment. It requires revenue from a special assessment to be deposited in an RTIP fund, and requires money in the fund to be used for the purposes described in the resolution creating the TFD. It provides a mechanism through which revenue from the assessment is returned to subdivisions, other taxing units, and land parcel owners, if the RTIP is dissolved.

H.B. 74 extends, until December 31, 2022, a provision in current law allowing a county, municipal corporation, or township to join, with voter approval, a regional transit authority (RTA) that levies a property tax and includes subdivisions that are located in a county with a population of at least 400,000 people, and, as part of this voter approved process, to repeal all RTA property taxes levied and instead levy an RTA sales and use tax. This change allows the Toledo Area Regional Transit Authority (TARTA) additional time to expand its territory of operations and change the local taxation structure in place to support its operations.

TAX/zg

Line Item Detail by Agency

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TAX Department of Taxation

Fund	ALI	Description	FY 2020	FY 2021	Appropriations FY 2022	FY 2021 to FY 2022 % Change	Appropriations FY 2023	FY 2022 to FY 2023 % Change
GRF	110321	Operating Expenses	$ 56,825,844	$ 53,042,227	$ 56,240,803	6.03%	$ 56,504,746	0.47%
GRF	110404	Tobacco Settlement Enforcement	$ 120,891	$ 121,763	$ 150,810	23.86%	$ 150,810	0.00%
		General Revenue Fund Total	**$ 56,946,735**	**$ 53,163,990**	**$ 56,391,613**	**6.07%**	**$ 56,655,556**	**0.47%**
2280	110628	CAT Administration	$ 11,933,791	$ 11,921,498	$ 10,545,000	-11.55%	$ 10,880,000	3.18%
4330	110602	Municipal Data Exchange Administration	$ 5,624	$ 0	$ 0	N/A	$ 0	N/A
4350	110607	Local Tax Administration	$ 26,498,363	$ 26,533,886	$ 31,020,628	16.91%	$ 31,020,628	0.00%
4360	110608	Motor Vehicle Audit Administration	$ 1,153,149	$ 1,299,204	$ 1,500,000	15.46%	$ 1,500,000	0.00%
4380	110609	School District Income Tax Administration	$ 6,880,112	$ 7,522,463	$ 9,000,000	19.64%	$ 9,000,000	0.00%
4C60	110616	International Registration Plan Administration	$ 394,814	$ 565,906	$ 705,869	24.73%	$ 705,869	0.00%
4R60	110610	Tire Tax Administration	$ 181,977	$ 83,606	$ 180,000	115.30%	$ 180,000	0.00%
5BP0	110639	Wireless 9-1-1 Administration	$ 98,781	$ 178,168	$ 298,794	67.70%	$ 298,794	0.00%
5JM0	110637	Casino Tax Administration	$ 106,250	$ 87,500	$ 125,000	42.86%	$ 125,000	0.00%
5MN0	110638	STARS Development and Implementation	$ 460,141	$ 0	$ 0	N/A	$ 0	N/A
5N50	110605	Municipal Income Tax Administration	$ 273,264	$ 130,642	$ 200,000	53.09%	$ 200,000	0.00%
5N60	110618	Kilowatt Hour Tax Administration	$ 81,822	$ 28,750	$ 100,000	247.83%	$ 100,000	0.00%
5NY0	110643	Petroleum Activity Tax Administration	$ 651,650	$ 852,768	$ 1,000,000	17.27%	$ 1,000,000	0.00%
5V70	110622	Motor Fuel Tax Administration	$ 3,917,683	$ 4,198,154	$ 6,000,000	42.92%	$ 6,000,000	0.00%
5V80	110623	Property Tax Administration	$ 3,602,859	$ 3,954,749	$ 5,000,000	26.43%	$ 5,000,000	0.00%
5W70	110627	Exempt Facility Administration	$ 13,212	$ 0	$ 0	N/A	$ 0	N/A
6390	110614	Cigarette Tax Enforcement	$ 1,451,878	$ 1,384,142	$ 1,450,000	4.76%	$ 1,450,000	0.00%
6880	110615	Local Excise Tax Administration	$ 334,362	$ 346,621	$ 500,000	44.25%	$ 500,000	0.00%
		Dedicated Purpose Fund Group Total	**$ 58,039,734**	**$ 59,088,056**	**$ 67,625,291**	**14.45%**	**$ 67,960,291**	**0.50%**
4250	110635	Tax Refunds	$ 2,439,315,525	$ 2,622,630,292	$ 2,179,769,300	-16.89%	$ 2,179,769,300	0.00%
5CZ0	110631	Vendor's License Application	$ 418,850	$ 626,250	$ 380,000	-39.32%	$ 380,000	0.00%
6420	110613	Ohio Political Party Distributions	$ 87,320	$ 0	$ 0	N/A	$ 0	N/A
		Fiduciary Fund Group Total	**$ 2,439,821,695**	**$ 2,623,256,542**	**$ 2,180,149,300**	**-16.89%**	**$ 2,180,149,300**	**0.00%**
R010	110611	Tax Distributions	$ 5,000	$ 689	$ 25,000	3,530.71%	$ 25,000	0.00%

Line Item Detail by Agency			FY 2020	FY 2021	Appropriations FY 2022	FY 2021 to FY 2022 % Change	Appropriations FY 2023	FY 2022 to FY 2023 % Change
TAX	**Department of Taxation**							
R011	110612	Miscellaneous Income Tax Receipts	$ 0	$ 0	$ 500	N/A	$ 500	0.00%
Holding Account Fund Group Total			**$ 5,000**	**$ 689**	**$ 25,500**	**3,603.33%**	**$ 25,500**	**0.00%**
Department of Taxation Total			**$ 2,554,813,163**	**$ 2,735,509,276**	**$ 2,304,191,704**	**-15.77%**	**$ 2,304,790,647**	**0.03%**

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All Fund Groups

Line Item Detail by Agency			FY 2020	FY 2021	Appropriations FY 2022	FY 2021 to FY 2022 % Change	Appropriations FY 2023	FY 2022 to FY 2023 % Change

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RDF State Revenue Distributions

			FY 2020	FY 2021	Appropriations FY 2022	FY 2021 to FY 2022 % Change	Appropriations FY 2023	FY 2022 to FY 2023 % Change
GRF	110908	Property Tax Reimbursement - Local Government	$ 639,424,796	$ 639,376,468	$ 651,400,000	1.88%	$ 658,400,000	1.07%
GRF	200903	Property Tax Reimbursement - Education	$ 1,161,179,901	$ 1,166,614,764	$ 1,183,000,000	1.40%	$ 1,195,600,000	1.07%
General Revenue Fund Total			**$ 1,800,604,697**	**$ 1,805,991,231**	**$ 1,834,400,000**	**1.57%**	**$ 1,854,000,000**	**1.07%**
5JG0	110633	Gross Casino Revenue Payments-County	$ 140,591,435	$ 112,189,518	$ 150,000,000	33.70%	$ 153,000,000	2.00%
5JH0	110634	Gross Casino Revenue Payments- School Districts	$ 95,984,803	$ 73,865,624	$ 99,800,000	35.11%	$ 101,800,000	2.00%
5JJ0	110636	Gross Casino Revenue - Host City	$ 13,783,474	$ 10,998,972	$ 14,700,000	33.65%	$ 15,000,000	2.04%
7047	200902	Property Tax Replacement Phase Out-Education	$ 132,343,761	$ 107,117,742	$ 83,157,236	-22.37%	$ 72,308,288	-13.05%
7049	336900	Indigent Drivers Alcohol Treatment	$ 731,341	$ 2,011,310	$ 2,250,000	11.87%	$ 0	-100.00%
7050	762900	International Registration Plan Distribution	$ 18,700,913	$ 16,839,850	$ 23,000,000	36.58%	$ 23,000,000	0.00%
7051	762901	Auto Registration Distribution	$ 300,336,611	$ 358,966,480	$ 328,000,000	-8.63%	$ 328,000,000	0.00%
7060	110960	Gasoline Excise Tax Fund	$ 855,098,327	$ 891,264,901	$ 900,000,000	0.98%	$ 920,000,000	2.22%
7065	110965	Public Library Fund	$ 393,088,822	$ 452,090,124	$ 439,000,000	-2.90%	$ 454,000,000	3.42%
7066	800966	Undivided Liquor Permits	$ 10,476,360	$ 7,206,834	$ 14,600,000	102.59%	$ 14,600,000	0.00%
7069	110969	Local Government Fund	$ 393,646,531	$ 451,474,951	$ 428,000,000	-5.20%	$ 443,000,000	3.50%
7081	110907	Property Tax Replacement Phase Out-Local Government	$ 12,017,686	$ 8,866,950	$ 7,256,000	-18.17%	$ 6,307,000	-13.08%
7082	110982	Horse Racing Tax	$ 47,445	$ 3,621	$ 60,000	1,556.82%	$ 60,000	0.00%
7083	700900	Ohio Fairs Fund	$ 787,012	$ 450,716	$ 1,000,000	121.87%	$ 1,000,000	0.00%
Revenue Distribution Fund Group Total			**$ 2,367,634,521**	**$ 2,493,347,594**	**$ 2,490,823,236**	**-0.10%**	**$ 2,532,075,288**	**1.66%**
4P80	001698	Cash Management Improvement Fund	$ 4,263,058	$ 1,986,098	$ 3,100,000	56.08%	$ 3,100,000	0.00%
5VR0	110902	Municipal Net Profit Tax	$ 40,134,962	$ 116,300,182	$ 70,000,000	-39.81%	$ 75,000,000	7.14%
6080	001699	Investment Earnings	$ 237,334,534	$ 103,415,847	$ 120,000,000	16.04%	$ 120,000,000	0.00%
7001	110996	Horse Racing Tax Local Government Payments	$ 166,554	$ 153,056	$ 240,000	56.81%	$ 240,000	0.00%
7062	110962	Resort Area Excise Tax Distribution	$ 1,267,318	$ 1,072,920	$ 1,500,000	39.81%	$ 1,500,000	0.00%
7063	110963	Permissive Sales Tax Distribution	$ 2,723,584,140	$ 2,951,715,635	$ 2,928,800,000	-0.78%	$ 3,057,700,000	4.40%
7067	110967	School District Income Tax Distribution	$ 504,257,244	$ 522,134,340	$ 560,900,000	7.42%	$ 594,000,000	5.90%
7085	800985	Volunteer Firemen's Dependents Fund	$ 209,475	$ 228,825	$ 300,000	31.10%	$ 300,000	0.00%
7093	110640	Next Generation 9-1-1	$0	$0	$ 1,000,000	N/A	$ 1,000,000	0.00%
7094	110641	Wireless 9-1-1 Government Assistance	$ 25,851,278	$ 25,689,296	$ 25,900,000	0.82%	$ 26,000,000	0.39%

Line Item Detail by Agency			FY 2020	FY 2021	Appropriations FY 2022	FY 2021 to FY 2022 % Change	Appropriations FY 2023	FY 2022 to FY 2023 % Change
RDF	**State Revenue Distributions**							
7095	110995	Municipal Income Tax	$ 19,649,691	$ 15,153,806	$ 20,000,000	31.98%	$ 20,000,000	0.00%
7099	762902	Permissive Tax Distribution - Auto Registration	$ 204,222,806	$ 244,018,332	$ 235,000,000	-3.70%	$ 242,000,000	2.98%
Fiduciary Fund Group Total			**$ 3,760,941,059**	**$ 3,981,868,336**	**$ 3,966,740,000**	**-0.38%**	**$ 4,140,840,000**	**4.39%**
R045	110617	International Fuel Tax Distribution	$ 52,519,035	$ 55,806,036	$ 56,100,000	0.53%	$ 56,100,000	0.00%
Holding Account Fund Group Total			**$ 52,519,035**	**$ 55,806,036**	**$ 56,100,000**	**0.53%**	**$ 56,100,000**	**0.00%**
State Revenue Distributions Total			**$ 7,981,699,313**	**$ 8,337,013,197**	**$ 8,348,063,236**	**0.13%**	**$ 8,583,015,288**	**2.81%**