

As Introduced

**126th General Assembly
Regular Session
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H. B. No. 61

**Representatives Driehaus, McGregor, Skindell, Miller, DeGeeter, Hartnett,
Strahorn, Garrison, Otterman, Harwood**

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To enact sections 101.91, 101.92, 101.921, 101.922, 1
101.923, 101.924, 101.925, 101.926, and 101.927 of 2
the Revised Code to provide for appraisal of the 3
effectiveness of tax expenditures and for their 4
expiration after appraisal if not renewed. 5

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

Section 1. That sections 101.91, 101.92, 101.921, 101.922, 6
101.923, 101.924, 101.925, 101.926, and 101.927 of the Revised 7
Code be enacted to read as follows: 8

Sec. 101.91. As used in sections 101.91, 101.92, and 101.921 9
to 101.927 of the Revised Code, "tax expenditure" means a 10
statutory provision, however denominated, that exempts certain 11
persons, property, goods, or services, in whole or in part, from 12
the operation of a tax. 13

Sec. 101.92. A tax expenditure created on or after April 15, 14
2005, expires at the end of the thirty-first day of December of 15
the fifth year after the year in which it was created, unless, 16
before its expiration date, it is renewed under section 101.922 of 17
the Revised Code. A tax expenditure does not apply to taxable 18

years that begin in the year the tax expenditure expires.

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Sec. 101.921. An act creating a tax expenditure shall specify:

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(A) The purpose served by the tax expenditure;

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(B) The date on which the tax expenditure expires;

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(C) The class of taxpayers that will benefit from the tax expenditure; and

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(D) Methods to be used to appraise the tax expenditure's effectiveness in serving its purpose.

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Division (D) of this section may be fulfilled by applying general statutes or by enacting statutory provisions that apply particularly to the tax expenditure.

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Sec. 101.922. The general assembly may renew a tax expenditure by enacting an act that:

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(A) Addresses only that subject;

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(B) Fulfills the criteria specified in section 101.921 of the Revised Code, including specifying a new expiration date for the tax expenditure; and

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(C) Improves the tax expenditure's effectiveness in serving its purpose; redefines the tax expenditure's purpose to serve or better serve a public need; retains or improves the statutes that enhance, or amends or repeals statutes that impede, the tax expenditure's effectiveness in serving its purpose; improves the tax expenditure's effectiveness in promoting economic growth and development; reduces the amount of revenue lost as a result of the tax expenditure; or re-enacts the tax expenditure to continue it without change.

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Housekeeping repeal of a tax expenditure that has expired

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shall not be combined in an act renewing a tax expenditure.

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Sec. 101.923. Not later than the date that is twenty-four months before a tax expenditure expires, the tax commissioner shall notify the tax expenditure sunset review committee of the tax expenditure's expiration. The committee thereupon shall prepare a schedule for appraising the tax expenditure so that the appraisal and the report required under section 101.926 of the Revised Code will be completed not later than the date that is twelve months before the tax expenditure expires. The schedule shall provide for a public hearing on the tax expenditure. The committee chairperson shall send a copy of the schedule to the tax commissioner, and the commissioner shall publish the schedule in the register of Ohio.

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Sec. 101.924. (A) For each tax expenditure scheduled for appraisal by the tax expenditure sunset review committee, the tax commissioner, and any other state official responsible for administering the tax expenditure, shall submit to the committee a report that:

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(1) Explains the tax expenditure's purpose;

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(2) Expresses an opinion as to the public need for the tax expenditure;

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(3) Expresses an opinion as to whether the tax expenditure has been impeded or enhanced by existing statutes;

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(4) Describes how, if at all, the tax expenditure promotes economic growth and development;

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(5) Provides an estimate of the amount of tax revenue lost each fiscal year as a result of the tax expenditure;

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(6) Expresses an opinion as to whether the tax expenditure should be allowed to expire or be renewed;

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(7) Contains any other information relevant to the 76
committee's appraisal of the tax expenditure. 77

The report shall be submitted to the committee on or before 78
the date scheduled for the tax expenditure's public hearing under 79
section 101.923 of the Revised Code. 80

(B) Each year, beginning in 2005, the legislative service 81
commission shall prepare and submit to the committee a report that 82
describes each tax expenditure created on or after April 15, 2005, 83
or renewed under section 101.922 of the Revised Code; identifies 84
the tax expenditure's intended purpose; and appraises the tax 85
expenditure's effectiveness using the methods prescribed in the 86
act creating the tax expenditure. 87

Sec. 101.925. At the time and place specified in the 88
schedule, the tax expenditure sunset review committee shall hold a 89
public hearing on the tax expenditure, at which any person may 90
present testimony or tangible evidence relevant to the tax 91
expenditure. After the hearing, the committee shall appraise the 92
tax expenditure. In making its appraisal, the committee shall 93
consider the reports submitted under section 101.924 of the 94
Revised Code and knowledge gleaned from the hearing, but is not 95
limited to these sources. Upon the committee's request, the 96
department of taxation, office of budget and management, and any 97
other state agency shall provide the committee with any 98
information in its possession the committee requires to appraise 99
the tax expenditure. The legislative service commission shall 100
provide drafting and clerical support to the committee. 101

Sec. 101.926. The tax expenditure sunset review committee 102
shall prepare a report of its appraisal of a tax expenditure that 103
contains: 104

(A) A statement of the purpose served by the tax expenditure; 105

<u>(B) An appraisal of the tax expenditure's effectiveness in serving its purpose;</u>	106
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<u>(C) An evaluation of whether the tax expenditure's purpose serves a public need;</u>	108
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<u>(D) An evaluation of whether other statutes have enhanced or impeded the tax expenditure's effectiveness in serving its purpose;</u>	110
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<u>(E) An appraisal of whether the tax expenditure promotes economic growth and development;</u>	113
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<u>(F) An estimate of the amount of revenue lost each fiscal year because of the tax expenditure;</u>	115
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<u>(G) A recommendation as to whether the tax expenditure should be allowed to expire or be renewed; and</u>	117
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<u>(H) Any other information the committee considers relevant.</u>	119
<u>In an appendix to its report, the committee shall include a draft of a bill that would implement its recommendation under division (G) of this section and, if the tax expenditure is recommended for renewal, section 101.922 of the Revised Code. If the committee recommends renewal of the tax expenditure, the appendix shall include a commentary to the bill draft explaining how renewal of the tax expenditure will fulfill the criteria specified in division (C) of section 101.922 of the Revised Code.</u>	120
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<u>The committee shall provide a copy of the report to the governor, the tax commissioner, the director of budget and management, and each member of the general assembly. The report is a public record.</u>	128
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<u>Sec. 101.927. There is hereby created the tax expenditure sunset review committee composed of nine members. The president of the senate, within fifteen days after the first day of the first</u>	132
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regular session of the general assembly, shall appoint three 135
members of the senate to the committee, not more than two of whom 136
are members of the same political party. The speaker of the house 137
of representatives, within fifteen days after the first day of the 138
first regular session of the general assembly, shall appoint three 139
members of the house of representatives to the committee, not more 140
than two of whom are members of the same political party. The 141
governor, within fifteen days after the first day of the first 142
regular session of the general assembly and with the advice and 143
consent of the senate, shall appoint three members to the 144
committee, not more than two of whom are members of the same 145
political party. 146

Legislative members of the committee hold office until their 147
successors are appointed or until they earlier cease to be members 148
of the senate or house of representatives, as the case may be. 149
Members appointed by the governor hold office for terms ending on 150
the thirty-first day of December of each even-numbered year. A 151
member appointed by the governor continues to hold office after 152
the expiration of the member's term until the member's successor 153
is appointed, or until thirty days have elapsed, whichever occurs 154
first. 155

In the first regular session of the general assembly, the 156
committee shall elect a member of the house of representatives as 157
chairperson of the committee and a member of the senate as 158
vice-chairperson of the committee. In the second regular session 159
of the general assembly, the committee shall elect a member of the 160
senate as chairperson of the committee and a member of the house 161
of representatives as vice-chairperson of the committee. 162

A vacancy on the committee shall be filled in the same manner 163
as the original appointment. A member appointed to fill a vacancy 164
occurring prior to the expiration of the term to which the 165
member's predecessor was appointed holds office for the remainder 166

of the unexpired term. 167

Members of the committee shall serve without compensation, 168
but shall be reimbursed for actual and necessary expenses they 169
incur in performance of their duties. 170

The committee shall meet as often as necessary to perform its 171
duties. 172

Five members of the committee constitute a quorum. The 173
committee shall not take any action without the concurrence of at 174
least five members. So long as a quorum is present, a vacancy on 175
the committee does not impair the ability of the remaining members 176
to perform the committee's duties. 177

Section 2. A tax expenditure in existence on April 15, 2005, 178
expires at the end of December 31, 2006, unless, before that 179
expiration date, it is renewed under section 101.922 of the 180
Revised Code. A tax expenditure in existence on April 15, 2005, 181
that expires does not apply to taxable years beginning in 2006. 182

Section 3. On or before January 1, 2006, the Tax Commissioner 183
shall prepare a list of the tax expenditures in existence on April 184
15, 2005, and shall provide a copy of the list to the chairperson 185
of the Tax Expenditure Sunset Review Committee. The Committee 186
thereupon shall prepare a schedule under section 101.923 of the 187
Revised Code for appraising the listed tax expenditures so that 188
the appraisal and the report required under section 101.926 of the 189
Revised Code will be completed not later than November 1, 2006. 190
The schedule shall provide for a public hearing on each tax 191
expenditure. The chairperson of the Committee shall send a copy of 192
the schedule to the Tax Commissioner, and the Tax Commissioner 193
shall publish the schedule in the Register of Ohio. On or before 194
the date scheduled for a tax expenditure's public hearing, the Tax 195
Commissioner, and any other state official responsible for 196

administering the tax expenditure, shall submit the reports 197
required under division (A) of section 101.924 of the Revised 198
Code. The Committee shall proceed to appraise the listed tax 199
expenditures under section 101.925 of the Revised Code, and to 200
report upon its appraisal of the listed tax expenditures under 201
section 101.926 of the Revised Code. 202

Section 4. (A) Not later than thirty days after the effective 203
date of this act, the Governor, with the advice and consent of the 204
Senate, shall make initial appointments to the Tax Expenditure 205
Sunset Review Committee under section 101.927 of the Revised Code. 206
The members thus appointed hold office for terms ending on 207
December 31, 2006. Thereafter, gubernatorial appointments and 208
terms of office shall be as prescribed in section 101.927 of the 209
Revised Code. 210

(B) Not later than thirty days after the effective date of 211
this act, the President of the Senate and the Speaker of the House 212
of Representatives shall make initial appointments to the Tax 213
Expenditure Sunset Review Committee under section 101.927 of the 214
Revised Code. The members thus appointed hold office for terms 215
ending as prescribed in section 101.927 of the Revised Code. 216