Statehouse Update

June 12, 2020

Monday, June 8, 2020
State Tax Revenue Down Another $271M In May

State tax receipts through the first 11 months of the fiscal year are in a more than a $1 billion hole after intake missed May estimates by $271.3 million.

The total tax receipts of about $1.82 billion for the month were down 13% compared to what analysts expected last year when the biennial budget was enacted, the Office of Budget and Management reported Monday. Still, it was a better performance than April's miss of 35.3%, or $866.5 million.

Heading into the final month of Fiscal Year 2020, total tax receipts were below what was anticipated by $1.05 billion, or 4.9%, according to OBM's preliminary revenue data.

"Overall we did begin responsibly reopening the economy starting in early May and continuing throughout May and into June," State Budget Director Kimberly Murnieks said in an interview. "It is good to see that our sales tax and personal income tax data did follow in a positive direction."

The personal income tax continues to make up the bulk of the fiscal yearto-date variance, being down $767 million, or 9.7%, through the first 11 months, per OBM. For May, it missed estimates by $91.4 million, or 15.1%.

It missed estimates by less than it did in April in part because the April numbers anticipated tax payments and refunds from the filing deadline, which was moved to July 15, Director Murnieks said.

"April was significantly negative because of the shift in the filing deadline from April 15 to July 15," she said. "The absence of that significant payment shift did make May look better."

The overall sales and use tax was off by more in May – down $167.3 million, or 17.6% – than the PIT, but makes up a smaller share of the overall underage than does the personal income tax. It is down $326.6 million, or 3.3%, for the fiscal year.

Within the sales and use tax, the non-auto sales tax was down $133.4 million, or 16.4%, for May and $247.2 million, or 2.9%, for the fiscal year. The auto sales and use tax was down $33.8 million, or 25%, for the month and $79.4 million, or 5.6%, for the year.

"The auto sales and use tax was particularly good to see since it was down so much during April," Director Murnieks said, noting it was down by 57% in April. "That was a significant move in a positive direction."

The change in the non-auto sales and use tax was not as dramatic but still moved in a positive direction, she said. "We are hopeful that these trends on the two sales tax categories will continue into June. We'll continue to see them miss estimate but by a lower percentage."

The commercial activity tax was below the estimate by $11.1 million for the month, or 3.2%, although it is still above for the fiscal year-to-date by $20.2 million, or 1.2%, per OBM.

Director Murnieks said the CAT lags and is still not showing the effects of the pandemic.

"A lot of that won't be really seen until the next CAT filing period, the next quarterly payment," she said.
The director also said new budget estimates for Fiscal Year 2021 are down by about $2.5 billion. Those figures will be included in the Monthly Financial Report expected to be released this week.

About $2.3 billion of the downward revision is tax revenue, with most of the change among General Revenue Fund non-tax receipts coming from earnings on investments.

The revisions don't include increased federal revenue, particularly from an enhanced federal share of Medicaid spending, she said. "We're already starting to close that $2.5 billion gap."

**Officials Seek More Leeway In Spending Federal Relief Funds**

The novel coronavirus has caused both a public health and a fiscal crisis, and state and local governments are worried there isn't enough flexibility in federal relief dollars to help address both issues.

State leaders across the country are urging Congress to allow them to spend money from federal relief funds in more ways than the strict, health-focused standards spelled out in enabling legislation.

As shutdowns prompted by the virus tanked state and local revenues, governments are facing problems beyond just public health.

"Additional flexibility around the coronavirus relief funds would be very helpful both for the state and for local governments as well," State Budget Director Kimberly Murnieks said in an interview. "We at the state level and local governments have been talking with the congressional delegation on an ongoing basis."

Legislation currently awaiting a concurrence vote by the Senate or a conference committee (SB 310) would allocate $350 million in federal relief funding to local governments. Another $850 million is being held back as lawmakers wait to see if federal officials will grant more flexibility in how those dollars can be used.

Senate President Larry Obhof (R-Medina) on Monday voiced support for legislation introduced by U.S. Rep. Warren Davidson (R-Troy) to make the management of that money more nimble.

"I appreciate Congressman Davidson's leadership in providing greater flexibility to state and local governments," Sen. Obhof said. "As we rebuild Ohio's economy, we must also contend with the fiscal strains caused by the shutdown. H.R. 7094 will help greatly with this. Instead of a nationwide 'one-size-fits-all' solution, it will give Ohio's leaders the flexibility to make decisions that are best for our own communities."

Ohio local governments face a particularly difficult strain based on local revenue in many cities being supported largely by income taxes, a situation not common elsewhere in the country.

A report from Moody's Investors Services found Ohio cities have an "immediate, heavy exposure to an economic downturn and resulting drop in income taxes, which account for an unusually large share of a local government's operating revenue compared with other states. Revenue declines will vary throughout the state depending in part on a city's economic reliance on industries especially hard hit by record job losses and weaker business profits. A protracted economic downturn would cause financial stress for almost all Ohio cities."

Moody's found that regional differences in economic exposure will cause the effects to be different in various parts of the state. Namely cities with more dependence on industries exposed to the downturn, such as leisure and hospitality, retail, transportation and automaking are at greater risk.

Cities with strong liquidity and flexibility – most cities rated by Moody's have enough cash on hand to partially offset the loss in revenue – will be better able to manage, the report said.

In the event of a more protracted downturn, however, other help will be needed.

"Under a more protracted economic slowdown than we currently expect, most Ohio cities would endure substantial liquidity stress," Moody's reported. "Severe expenditure reductions would be critical to help offset declining income tax revenue. Cash flow borrowing and material federal aid, however, have the potential to help close budget gaps and lessen liquidity stress."
Ohio's financial difficulties are far from unique. Nationwide, states are looking at projected Fiscal Year 2021 revenue declines of about $350 billion, Erlinda Doherty, director of the budget and revenue committee for the National Conference of State Legislatures, said during a briefing on state fiscal issues.

Other estimates have that figure potentially reaching toward $750 billion nationwide, Ms. Doherty said. "There is obviously uncertainty ahead," she said.

A pair of state lawmakers – one from Mississippi and one from Rhode Island – discussed their states' concerns during the NCSL briefing, identifying a few key issues. One is the need for more flexibility in federal relief money.

"I think Washington has to realize that just as America has to stabilize, states have to stabilize their economies too," said Rhode Island state Rep. Marvin Abney, who chairs the House Committee on Finance.

He said his state is identifying money that could be moved around to prevent budget cuts while using federal CARES Act dollars to plug certain budget holes.

"We still are not quite clear, sometimes, on some rules of how you can use the money that we have. I know it seems simple but it is not that simple," he said. "It is so important that states have that flexibility."

Rep. Abney and Mississippi state Sen. Briggs Hopson, who chairs his Senate Appropriations Committee, said both states are also looking at what other programs must be cut in order to address falling revenues.

"We're talking about programs being cut and we're talking about people not being able to get the services they need," Sen. Hopson said.

Mississippi only recently recovered fiscally from the recession of more than a decade ago, and its rainy day fund won't have enough money to address shortfalls in Fiscal Years 2020 and 2021.

"If we have a second wave or something else that goes on in this state, frankly, I don't know what we're going to do," he said. "There won't be enough left in the rainy day fund or other backup sources to get us through the next year."

**New Timeline Announced For Potential Cracker Plant**

Developers are hoping to reach a final investment decision on a potential ethane cracker plant within the next nine months.

PTTGC America recently announced that new timeline to push back on speculation that the company and its partner, Daelim, had indefinitely paused the project amid the financial impact of the novel coronavirus pandemic.

Officials in April had signaled that although the project was a "top priority," they would delay the decision on whether to finalize plans for a world-class petrochemical complex in Belmont County given economic uncertainties.

"We continue to be grateful for the support and encouragement we receive from this community and all our local, state and federal partners," said PTTGCA President and CEO Toasaporn Boonyapipat. "While the pandemic has prevented us from moving as quickly as we would like within our previous timeline, our best estimate is for a final investment decision by the end of this year or in the first quarter of next year."

The project timeline has been subjected to repeated delays; the effort was first announced by state and company officials in 2015, with a decision eyed for the following year.

News heading into the public health crisis was positive, however, with the company planning a mid-year investment decision before the economic shutdown engineered to slow the virus' spread. At that point, PTT officials expressed interest in beginning commercial operation in early 2026.

The companies have continued to take steps forward, however, and in March announced a 15-year property tax exemption deal with a local school system, Mead Township and Belmont County. JobsOhio has also engineered tens of millions of dollars in grants to support the project.
A similar plant under construction in Pennsylvania, meanwhile, has also faced setbacks, with work being suspended for a time.

Developer Royal Dutch Shell is now pushing back on a report from the Institute for Energy Economics and Financial Analysis that opines that the Shell project and those like it due to current market conditions are "likely to be less profitable than expected and face an extended period of financial distress."

**Tuesday, June 9, 2020**

**Governor Seeks Police Standards For Mass Protests; House Dems Outline Strategies**

A state-level entity created to develop standards for law enforcement activity will be tasked with developing protocols for handling mass protests, including the use of tear gas, Gov. Mike DeWine said Tuesday.

The governor also said his administration will be urging the 400-plus Ohio law enforcement agencies that have not yet signed onto standards regarding the use of use of force and recruitment of minorities and women to do so quickly.

He also called recommendations to defund police agencies "absurd."

The governor made the announcements as protests against police violence continued at the Statehouse and in other Ohio locations.

While Mr. DeWine said 79% of Ohio law enforcement officers work for agencies that have adopted the use of force standards, hundreds of agencies have not done so.

Calls to adopt the policies will come from the Office of Criminal Justice Services, which issues an annual report detailing the entities that have followed the policies.

The Ohio Collaborative Community-Police Advisory Board that develops the standards was established in 2015. Mr. DeWine said police agencies that have adopted all standards – including those involving vehicle pursuit – are showing strong leadership.

The new standards the governor requested will also focus on the best tactics to handle crowds that do not disperse, finding ways to prevent media covering protests from being injured and when tactics reach excessive force levels.

The governor said he isn't looking to give violent individuals a "free pass," adding that law enforcement should react to violent situations and cases when properties are being damaged.

He said, however, people need to be protected while others exercise their right to demonstrate.

Mr. DeWine added that his team will be working with the Ohio Mayors Alliance, sheriffs, police chiefs and other impacted groups on the concepts. He said other changes will likely need legislative support.

The governor said he is not supportive of some calls to defund police operations.

"We need police. We need fire. We need emergency responders," he said. "It doesn't mean we don't make changes."

**House Democrats' Plan:** Also on Tuesday, the House Democratic Caucus announced several proposals to respond to the issue.

The proposed package of legislation would prohibit profiling, tear gas, and the use of quotas by all law enforcement agencies. It calls for independent investigations of officer-involved shootings and the creation of databases to better track problematic behavior and employment history of law enforcement officers.

"Like the countless protestors who have taken to the streets outside the statehouse screaming for justice, our caucus is also determined to seek justice inside these walls and realize the true Ohio Promise," House Minority Leader Emilia Sykes (D-Akron) said in a statement.
"Racism did not just happen overnight and it will not be eradicated overnight. But as more and more join the fight, we need to all come together and channel the range of feelings we are experiencing right now – anger, sadness, frustration, shame, hopelessness – and enact meaningful change. Black Ohioans cannot do it alone anymore, we must move forward together."

House Democrats said they are considering bills to:
- Demilitarize the police by prohibiting Ohio police departments from benefitting from the federal 1099 program, which allows the DOD to offload excess and surplus military weapons & equipment to police departments at little to no cost;
- Prohibit law enforcement agencies from profiling and require annual racial or other biased-based police training;
- Prohibit the use of arrest or citation quotas by all law enforcement agencies;
- Address de-escalation and mental health training;
- Require that all officer-involved shootings and other officer misconduct be independently investigated;
- Create a centralized excessive use of force database that would require all law enforcement agencies to report officer-involved shootings and injuries;
- Requires the Attorney General to maintain a database showing the employment history of police officers;
- Require police officers wear clearly visible and easily traceable identification at all times, and;
- Prohibit the use of tear gas by law enforcement.

In addition, the caucus called on Congress to pass the Congressional Black Caucus' Justice in Policing Act.

COVID-19: Gov. DeWine continued to stress the importance of Ohioans wearing masks and taking precautions to help minimize the spread of the novel coronavirus.

He said it was concerning to see so many people at protests without masks and not engaging in social distancing.

Dr. Susan Koletar, director of the division of infectious disease at the Ohio State University College of Medicine, added that much is still being learned about the disease.

She reminded Ohioans that even pre-symptomatic individuals can transmit the disease and urged people to continue to wear masks if at all possible. "When everyone is wearing masks, that reduces the likelihood of transmitting from one person to another," she said.

"It's so important for Ohio to keep the distance," the governor said. "We're in a time period when we just don't know which way this is going."

The governor said his administration is doing what it can to have state employees continue to work from home if possible. That standard, he said, is similar to what he is encouraging businesses to do. "I think it is the safest thing."

He added that as of last week, the state had distributed 30 million pieces of personal protective equipment, with more than 28 million pieces being delivered to county emergency management agencies for local distribution.

House Committee Hearings - State & Local Government
HB 218 PUBLIC-PRIVATE AGREEMENTS (Patton, T.) To authorize certain public entities to enter into public-private initiatives with a private party through a public-private agreement regarding public facilities. CONTINUED-AMENDED (No testimony) (4th Hearing-All testimony-Possible amendments)

The panel accepted an amendment, which Rep. Jason Stephens (R-Kitts Hill) said adds "clarifying language" from the Ohio Insurance Institute "to ensure surety bonds are issued in an adequate amount to protect all parties."

HB 444 TOWNSHIP LAWS (Baldridge, B., Abrams, C.) To make various changes to township law. CONTINUED-SUBSTITUTE (3rd Hearing-All testimony-Possible substitute)

The committee accepted a substitute version offered by Rep. Steve Hambley (R-Brunswick). (Comp Doc)

The lawmaker said the updated legislation:
— Removes a requirement that municipalities and townships forming special improvement districts are contiguous.
— Clarifies that renewal levies with an increase or decrease in millage can commence in the last year of an existing levy if approved in the November election, and no sooner.
— Deletes a provision modifying metropolitan housing authority board membership.
— Removes language on notification requirements around electric or telephone pole excavation or repair.
— Strikes a provision allowing joint fire, EMS and police levies.

Bob Kusmer, a Ballville Township trustee, offered written testimony in favor of the measure.

Wednesday, June 10, 2020
House Passes Bills On COVID Reporting, Alcohol Delivery, Telehealth

Four fast-track bills responding to the novel coronavirus pandemic are on their way to the Senate after House action Wednesday.

Measures authorizing permanent alcohol delivery and carryout, boosting telemedicine services access and expanding the purview of pharmacists passed with little dissent. But Rep. Diane Grendell's plan to expand COVID-19 data reporting efforts by local and state entities sparked plenty of debate before clearing the chamber along party lines.

Those items were among nine that cleared the chamber, with other approved bills touching on water and sewer service rates, athletic trainers, veterinarian education and dyslexia screening.

The bill (HB 624) from Rep. Grendell (R-Chesterland) passed 61-34 after plenty of debate and would require reporting of specific COVID-19 testing data from the Department of Health.

The agency, for example, would be required to report numbers of confirmed cases not requiring medical care, patients treated and released, those who tested negative and infection rates for congregate settings.

Rep. Grendell said Ohioans deserve to have a full picture of the virus, but that "this has not been the case in the last four months."

"How can we make policy decisions when we don't know these facts?" she asked.

Democrats pushed back on the lawmaker's plan, with Rep. Allison Russo (D-Upper Arlington) arguing reporting must be balanced with patient confidentiality which could be jeopardized by some of the bill's requirements.

Among the Republicans speaking in support, Rep. Jason Stephens (R-Kitts Hill) said the measure simplifies the reporting so residents can make their own decisions, while Rep. Todd Smith (R-Germantown) said he was "befuddled" the push for more transparency wasn't unanimously supported.

Rep. Beth Liston (D-Dublin), a physician, said most of the information the sponsor is seeking is already available and that the bill undermines faith in officials who have been lauded nationally for their response to the virus.

"We all believe in transparency, but just saying we need to be more transparent doesn't make the reporting better," she said.
"In fact, this bill is very prescriptive in how the information needs to be presented."

Other bills passed by more bipartisan margins, including the alcohol measure (HB 669) from Rep. Jeff LaRe (R-Violet Twp.) and Rep. D.J. Swearingen (R-Huron) which legalizes carryout drink purchases and third-party alcohol deliveries, codifying a temporary rule issued by the Ohio Liquor Control Commission.


Sponsors painted the measure as a way to provide a lifeline to a hospitality sector that was hard hit by the economic toll of the virus. An emergency clause was approved 88-4, with objections from Reps. Hood, Keller, Merrin and Powell.
Rep. Mark Fraizer (R-Newark) and Rep. Adam Holmes (R-Zanesville) earned support for their plan (HB 679) to expand telemedicine services laws to psychologists, audiologists, occupational therapists and more.

An amendment from Rep. Fraizer was added on the floor and would establish a register of dental image technicians under the Ohio Dental Board along with a number of technical changes.

Rep. Fraizer said telehealth has seen exponential growth thanks to COVID-19 and that Ohio statutes need to keep up. The legislation also prohibits a public health plan from cost sharing exceeding the cost sharing for comparable in-person services and requires plans to reimburse professionals for covered services.

The bill ultimately passed 90-3 over objections from Reps. Antani, Hood, and Keller.

The fourth COVID-related bill (HB 673) was amended on the floor with language from Rep. Jamie Callender (R-Concord) aimed in part at alleviating last-minute concerns raised Wednesday afternoon by the Ohio Nurses Association.

The language ensures that in order to get a temporary nursing license one can't have failed the exam, been convicted of a felony, or failed a drug test. If a license is issued and any of those occurs, that license is to be suspended, Rep. Callender said.

The legislation expands the role of pharmacists, enabling them to conduct COVID-19 and antibody tests and to supervise pharmacy interns and certified pharmacy technicians to do the same.

Sponsor Rep. Bill Roemer (R-Richfield) said his plan will ensure pharmacists can play an important role especially in the event of a second wave of the virus. The measure passed 92-0.

In non-COVID-related business, the chamber approved 56-38 a measure (HB 163) from Rep. Tom Brinkman (R-Cincinnati) to create a process to withhold local government funds and water and sewer assistance from municipal corporations in some circumstances.

Those that would see funds withheld are those charging higher extraterritorial rates for similar properties with a few exceptions or requiring extraterritorial subdivisions to make direct payments as a condition of providing services in excess the cost related to providing that service.

Rep. Brinkman said "monopolistic behavior" should not be tolerated, while Rep. Kent Smith (D-Euclid) argued the plan would create "a multitude of problems in the future" based on the opponent feedback gained during committee.

Other GOP members speaking in defense of the bill argued it would alleviate what Rep. Callender called an "incredibly unbalanced balance of power" between cities serving neighboring areas.


Rep. Brinkman also won 92-2 approval for his proposal (HB 67) with Rep. Brigid Kelly (D-Cincinnati) to create the Veterinarian Student Debt Assistance Program, through which a licensed vet could receive up to two continuing education credits per biennium for performing free spaying and neutering services. Reps. Antani and Powell voted against that bill.

A plan (HB 484) to modernize laws pertaining to athletic training cleared the chamber 89-5 with dissenting votes from Rep. Michele Lepore-Hagan (D-Youngstown), Rep. Michael Skindell (D-Lakewood) and Reps. Antani, Dean and Hood.

It would in part require a trainer to practice under a collaboration agreement with a physician or podiatrist and eliminate the requirement a trainer be employed by an educational institution, a professional or amateur organization, or an athletic or health care facility.
It makes various changes to a trainer's scope of practice, including giving them purview over: providing emergent care, therapeutic interventions and injury rehabilitation; promoting and educating about wellness; and performing athletic training research.

Legislation (HB 436) from Rep. Brian Baldridge (R-Winchester) requires the creation of the Ohio Dyslexia Committee, which would assist the department in screening, intervention and remediation efforts for children with dyslexia.


The chamber also unanimously passed a measure (SB 163) to create an ALS awareness license plate which must now receive a Senate concurrence vote after a House panel added omnibus language encompassing all outstanding license plate bills.

Senate Makes Counter Offer To House On Reappropriations

The Senate on Wednesday added $1.28 billion in capital reappropriations and support for local governments to a House-passed bill in response to action in the lower chamber last week.

A piece of land-conveyance legislation (HB 481) was one of five House measures to receive floor amendments in the Senate in a jam-packed session that saw 12 measures earn approval.

Sen. Matt Dolan (R-Chagrin Falls) offered the lengthy amendment to HB481 that rolled a measure (SB 310) to provide $350 million in federal coronavirus relief funding for local governments and the Senate's reappropriations plan (SB 316) into the legislation.

The amended emergency measure cleared the chamber in a 30-2 vote with Sen. Teresa Fedor (D-Toledo) and Sen. Kristina Roegner (R-Hudson) opposed.

Prior to the bill's passage, Sen. Nickie Antonio (D-Lakewood) offered an amendment that would have required transportation improvement districts to comply with state prevailing wage law, which was tabled by a vote of 17-15.

That proposed change was one of several local government-focused amendments SB310 picked up in the House before its passage. The Senate voted against concurring with those amendments Wednesday.

Senate President Larry Obhof (R-Medina) told reporters after session that change was not the only issue the Senate had with House changes to SB310.

"There were several other amendments that were added in the House last week that we'd like to take a look at – some, for example, related to competitive bidding for projects," he said.

Sen. Obhof highlighted Speaker Larry Householder's statement that he expected SB310 "will end up in conference committee" in his rationale for amending HB481.

"Our concern was with the reappropriations and with the (Coronavirus Aid, Relief, and Economic Security) Act money, those are emergencies that need to be done now, so we created a second vehicle to make sure that those can be done now as emergency measures," he said.

Rep. Householder told reporters after Wednesday's House session that he had not discussed the changes with the Senate in advance.

"The things that are in there appear to be pretty important things that we'd like to get done but we just have to see, timing-wise, how we're going to handle that, what's in there, what different provisions they've changed and how we're going to deal with it, frankly," he said.

Sponsor Touts COVID-19 Immunity Bill

A Senate panel on Wednesday began its review of legislation that gives businesses immunity during the COVID-19 pandemic.
Sponsoring Rep. Diane Grendell (R-Chesterland) told members of the Senate Judiciary Committee the measure (HB 606) will provide the business and medical community some certainty as they reopen amid the COVID-19 pandemic.

"Think about this: Frontline medical professionals are putting their own health at risk in an effort to help others. Businesses large and small are weighing how best to operate in this uncertain time. The list goes on. Ohio needs a flourishing economy, not a flurry of COVID-19 lawsuits," she said.

The bill covers the period of March 9 – when Gov. Mike DeWine declared an emergency – through Dec. 31.

The sponsor also emphasized that the legislation does not provide immunity for businesses and people who do the wrong thing.

"It does not provide immunity for those acting with malicious purpose...it does not provide immunity for those acting recklessly or in bad faith," she said. "But if you're a homeowner, a small business owner, a first responder, a health care professional trying to do the right thing, House Bill 606 will give you greater certainty and peace of mind."

Rep. Grendell also touted a Democratic amendment to allow a limited presumption that health care employees and restaurant industry workers contracted COVID-19 on the job for the purpose of workers' compensation benefits.

"Again, it's important to emphasize the entire bill is in response to the unprecedented pandemic we face, recognizing the need for immunity for businesses while at the same time recognizing employees in certain industries receiving that immunity were on the front lines of COVID-19 exposure," she said.

Rep. Cecil Thomas (D-Cincinnati) asked for examples of situations in which the immunity would apply.

Rep. Grendell said one scenario is one in which an employee who is sick shows up for work, has his or her temperature taken, shows no signs of a fever and ends up infecting others. In that case, the immunity would apply.

In the case of an individual, she raised the prospect of a cashier who shows no symptoms of COVID-19 and cannot wear a mask for medical reasons.

Sen. Teresa Fedor (D-Toledo) questioned the opposition to the measure in the House, specifically raising concerns heard in the upper chamber on a similar bill from those who have family members in nursing homes.

Rep. Grendell said compromises were made with those that expressed concern with the bill and that just nine members of the House voted against it on the floor.

As for the nursing home issue, Rep. Grendell said she fielded calls from nursing homes about difficulty obtaining personal protection equipment.

The Senate measure (SB 308) cleared the upper chamber earlier this month in a party-line vote.

It has since been referred to the House Civil Justice Committee.

**House Committee Hearings - Finance**

HB 13 BROADBAND EXPANSION (Carfagna, R., O'Brien, M.) To establish the residential broadband expansion program and to make an appropriation. CONTINUED-AMENDED (On House calendar for Thursday, June 11-Pending committee report) (7th Hearing-All testimony-Possible amendments & vote)

The committee recessed before finishing its hearing of the bill, which was slated for another possible amendment and vote. The measure is slated for a vote on the House floor Thursday.

Before recessing, the committee accepted an amendment from Rep. Rick Carfagna (R-Genoa Twp.) that he said removed language dealing with sales tax exemptions for equipment used in internet services.
The language was intended to clarify a current exemption, he said, and was not expected to cause a significant change in state tax revenue. Feedback from the Department of Taxation indicated otherwise.

"We are not looking to do a legislative fix that is going to reduce state and local revenues, especially in this economic climate," he said. "There may be a way to get some opinion letters from the tax commissioner to settle the matter without a legislative fix."

Larry Kidd, founder, president and CEO of hire, an employment staffing firm with offices in central and southeastern Ohio, said internet connectivity is a challenge in rural Ohio.

"Reliable and consistent internet has become an essential utility," he said. "Just like water, sewage and electric, families need internet to sustain and grow. It is unfair for those living in a rural community to be plagued by unreliable or nonexistent internet."

Rep. Carfagna asked the witness what better coverage would do for his ability to expand his business.

If it were possible, Mr. Kidd said he could have up to half of his staff work remotely all the time.

Rep. Cera asked if any existing providers have expanded service in recent years in his county. The witness said he did not know of any.

Greg Lawson, research fellow at the Buckeye Institute, wrote in support of the measure.

"With necessary state budget cuts looming for the foreseeable future, non-essential spending should be reduced or excised to create fiscal space for House Bill 13’s broadband grant program," he wrote. "Bringing broadband to households throughout the state should be done quickly, transparently, and cost-effectively. House Bill 13 will help Ohio accomplish that."

Ohio Economic Development Association Executive Director Jennifer Tisone Price also expressed support in written testimony.

"The legislation begins to address many of the barriers to reliable broadband service in Ohio and allocates essential funding for broadband expansion," she wrote. "We look forward to working with you on this issue and further efforts to ensure every Ohio community has the broadband infrastructure and service levels necessary to meet the needs of its residents and businesses."

Thursday, June 11, 2020
Bills On Broadband, School And Public Works Bonds Among Several To Clear House In Marathon Session
After a busy day of work of the House, the House's final priority measure is on its way to the Senate.

The broadband expansion measure (HB 13) cleared the chamber in an 81-8 vote.

It was one of several bills, including one that picked up hundreds of millions of dollars in new capital appropriations, voted on during a session that spanned more than 12 hours and lasted into early Friday morning.

Sponsor Rep. Rick Carfagna (R-Genoa Twp.) said the broadband bill will help address longstanding concerns about the lack of internet access in unserved parts of Ohio. That shortcoming has been especially apparent during the COVID-19 pandemic, when connectivity has been vital to many people.

"High speed internet is the great social equalizer of our time," he said. "Consider the amazing proliferation of telehealth options and what we're all doing as a legislature to promote that. And then realize what a waste of resources this is in areas where you can't get a high-speed internet connection."

Fellow sponsor Rep. Michael O'Brien (D-Warren) said more than ever "life as we know it is dependent on broadband, and access is required."
"What this bill represents is Ohio's first broadband expansion program specifically targeting unserved residential households," he said.

The measure was marked as a House priority early in the session and aimed to encourage broadband internet providers to invest in underserved areas, particularly in rural Ohio.

It started out creating a $2 million fund to help cover the difference between the needed money to extend access and what the broadband company could afford based on the number of added customers. During a first hearing before the House Finance Committee last year, Rep. Carfagna said it would take "a lot of money" to extend broadband to all of the areas and that the effort was designed to "chip away" at the problem.

It can do a bit more chipping after the appropriation for the program grew tenfold with a substitute version accepted by the committee last month. That overhaul also included many changes to the functioning of the proposed Broadband Expansion Program Authority under the Department of Commerce.

Other provisions have been taken out of the bill after facing questions or opposition, including one dealing with railroad rights-of-way and another dealing with a sales tax exemption for broadband equipment.

Before the session vote, the House Finance Committee reported the measure 29-2 and accepted an amendment by a 23-9 vote that Rep. Carfagna said would create a pilot program to allow electric utilities to provide middle-mile fiber as broadband facilitators. The amendment is related to a proposal offered in committee by AEP, but Rep. Carfagna said it is a "scaled-back, narrowly focused" version.

The three-year pilot project would allow utilities to do so in unserved priority areas in certain Appalachian counties, he said. They could receive cost recovery for the installation of middle mile fiber but must have a contract with an internet provider to use the service. The amendment also places specific limits on cost recovery.

"I feel a lot better about where we are with this proposal. I'm comfortable with it. I've said from the beginning that we need to have all options on the table in order to bring this critical resource to these unserved areas," Rep. Carfagna said. "This middle mile construction I think should be part of this discussion."

The House also voted 70-12 to approve a Senate measure that initially appropriated money for school construction.

The bill was amended on the floor by Rep. D.J. Swearingen (R-Huron) to become a one-year capital bill of sorts. It includes bonding authority totaling $300 million for school facilities and $255 million for public works including local infrastructure projects.

"Reopening Ohio and rebuilding our economy must include investing in our infrastructure and Ohio's future and that's what this amendment does," Rep. Swearingen said.

Rep. Bill Seitz (R-Cincinnati) added language previously sent to the Senate regarding Transportation Improvement Districts' application of prevailing wage, the temporary use of surplus Tax Increment Financing funds to pay for public safety services, and a waiver of competitive bidding requirements for local jurisdictions purchasing personal protective equipment during the COVID emergency.

Members in a 58-32 vote approved a controversial bill (HB 425) to end the requirement for concealed carry license holders to notify law enforcement when they are armed.

It was slated for a voted last week, but Speaker Larry Householder (R-Glenford) put it off out of respect for the memorial service of George Floyd, a black man in Minnesota who died after a police officer put pressure on his neck for more than eight minutes, sparking nationwide protests.

The latest version of the bill requires a concealed handgun licensee stopped for a law enforcement purpose while carrying a weapon to provide a copy of the license or orally inform the officer that he or she has been issued a license and disclose the presence of a concealed handgun if asked.
Before it was approved, an amendment offered by Rep. Jessica Miranda (D-Forest Park) to roll another measure (HB 240) into the bill to require the safe storage of a firearm was tabled in a 56-34 vote.

Sponsoring Rep. Scott Wiggam (R-Wooster) said the measure will protect law-abiding Ohio citizens by clarifying ambiguous language.

"Our citizens deserve to have laws that are understandable and clearly defined," he said.

Rep. Wiggam went on to say that only nine states have a similar duty to notify, and Ohio carries the most severe penalty for noncompliance.

Rep. Joe Miller (D-Amherst), however, said the legislation will encounters between law enforcement and the public more fraught at a time in which tensions between the groups are already high.

"I'm afraid tonight's vote...is a political solution looking for a policy problem in an unprecedented time," he said.

The chamber in a 75-16 vote also approved a measure targeted at supporting restaurants and other businesses financially devastated the economic fallout of the novel coronavirus pandemic.

The (HB 674) plan from Rep. Brett Hillyer (R-Urichsville) was one of two priority alcohol bills the chamber fast-tracked to support a hospitality sector hard-hit by the fallout of the pandemic.

The legislation, which cleared the House Commerce & Labor Committee Tuesday, contains a wide array of statutory changes to bolster the industry, including nixing statutory limitations on Sunday alcohol sales, eliminating the Liquor Control Commission's authority to adopt rules for sales of beer and liquor on holidays, and expanding permit holders' ability to create outdoor refreshment areas.

Among other provisions, the bill: expands the ability to consume alcohol in public airports, creates a J liquor permit to extend weekend hours of operation to 4 a.m., and provides amnesty from disciplinary action related to violating COVID-19-related heath orders if the action occurred prior to June 1 and the liquor permit holder otherwise operated in compliance with the permit.

The vote came after Rep. Hillyer offered up an amendment to remove an emergency clause and Republicans voted to table an amendment offered by Rep. Kent Smith (D-Euclid) with a narrow 48-43 margin after several of the more conservative members of the GOP caucus sided with their Democratic counterparts.

The amendment would have removed language allowing bars to remain open until 4 a.m., which Rep. Smith said will put a strain on police forces across the state.

But Rep. Hillyer countered by saying that not all bar owners will apply, and local governments can reject applications for the new liquor license.

Rep. Seitz added that, because of the state's industrial roots, bars open at 6 a.m., which means the impact on police forces should be minimal.

In a unanimous vote, members approved legislation (HB 429) to update the Address Confidentiality Program administered by the secretary of state's office.

Rep. Cindy Abrams (R-Harrison), sponsor of the bill, said current law can make it difficult for participants to purchase real estate. She also cited the uptick in domestic violence during the COVID-19 pandemic as another reason to support the measure.

Secretary of State Frank LaRose hailed the passage of the measure in a statement.

"Our Safe at Home program currently helps more than 1,000 Ohio survivors stay safe. With these improvements Safe at Home will be even stronger to serve them as they rebuild their lives," he said. "Ohio has taken the right step forward in
offering this program and now we must continue to make sure it works effectively and as promised. We can't go halfway on something as important as this."

The House also approved measures to: create the Unclaimed Funds Reform Act (HB 270) and establish animal abuse reporting requirements (HB 33).

And in what's expected to be the final floor action in the House for a while as lawmakers eye summer recess, a bill to allow certain township police departments to patrol interstate highways (HB 539) was re-referred to the Criminal Justice Committee.

**House Sends Plan For Virus Relief Funds, Capital Reappropriations To Governor**

A sizable spending bill that includes bonding authority to continue ongoing capital projects and coronavirus relief funding for local governments is headed to Gov. Mike DeWine's desk after completing a wild trip through the legislature.

The emergency measure (HB 481), on which the House voted 86-1 to concur in Senate amendments Thursday, began its journey as a simple land conveyance measure to allow state agencies and higher education institutions to sell property.

On Wednesday, the upper chamber expanded the scope of the measure tremendously by adding in $1.28 billion in capital reappropriations, $550 million in federal CARES Act dollars for local governments and a handful of other provisions.

That amendment was the Senate's counter offer to the House on the issue after the House added capital reappropriations and other provisions last week to a bill (SB 310) that previously included simply the $350 million in federal aid. The House added several other policy provisions, some of which gave the Senate pause.

Facing a June 30 deadline for capital reappropriations and demands from local governments for help as quickly as possible, the two chambers used the measures almost as a makeshift conference committee. The Senate's floor amendment did not include every amendment added by the lower chamber to SB310.

Both measures included language allowing the governor to freeze pay increases for certain state employees, modifying Medicaid rates for nursing facility services and exempting Paycheck Protection Program loans forgiven under the CARES Act from the commercial activity tax.

While both bills include language designed to help local governments save money through furloughs for exempt employees, the final version allows up to 160 hours for such programs, while SB310 would have authorized up to 480 hours.

The final HB481 language does not include language added to SB310 by the House that would have dealt with prevailing wage requirements for projects funded in part by transportation improvement districts. It also doesn't include provisions allowing municipalities and townships to temporarily divert payments from tax increment financing projects or exempting local governments from competitive bidding requirements during the emergency.

The final passage puts an end to a somewhat contentious debate over capital project funding. HB481 was the fifth bill to deal with the reappropriation of money for Fiscal Years 2021 and 2022 for work originally approved by the prior General Assembly. The action is not typically controversial, as the projects are previously approved and ongoing.

Before the coronavirus and the subsequent financial crisis, the House had introduced a measure (HB 582) as a placeholder for capital reappropriations. That was never used, and as the state's financial picture in the wake of the crisis began to look bleak, the House (HB 670) and Senate (SB 316) introduced their own approaches.

While the Senate's proposal included $1.28 billion to cover all ongoing bricks-and-mortar work, the House version left many out, including all higher education projects. House leaders said the goal was to start a discussion to ensure projects were vetted and explore why they were incomplete.

That process ended last week with the House's acceptance of the full list and its inclusion in SB310.
The local government money is the first $350 million of a total of about $1.2 billion in CARES Act dollars expected to flow through the state to counties, cities and townships with populations under 500,000 to help with costs incurred due to COVID-19.

The passage of funding to support local governments earned praise from the Ohio Mayors Alliance, Ohio Municipal League, County Commissioners Association and Ohio Township Association in a statement.

"Local governments face a perfect storm of increasing costs and decreasing revenue as a result of this health and economic crisis, and these initial funds will help provide immediate relief for our front-line workers."

"There is much work to do and many challenges still ahead, but passage of the first phase of this funding is a critical step forward that will help local communities in every corner of Ohio. We look forward to our continued partnership with the state legislative leaders and the Governor to ensure that we have a safe, strong and swift recovery."

Friday, June 12, 2020

**Rising Medicaid Rolls Drive State Overspending In May**

The impact of the COVID-19 pandemic, already devastating to tax revenues, is rearing its ugly head on the other side of the state budget ledger.

The state reported spending 8% more than was anticipated in May, largely driven by Medicaid, while also detailing an anticipated $2.5 billion revenue shortfall in Fiscal Year 2021.

Officials have anticipated a surge in Medicaid outlay, which usually rises considerably in times of economic stress as reflected in a nearly 5% rise in caseload compared to May estimates. That development, along with plummeting tax intake triggered by the state's economic shutdown, will result in a significant financial reckoning for the fiscal year beginning July 1 – and beyond.

Spending from the General Revenue Fund last month was above original biennial budget planning projections by $226.6 million, or 8.3%, the Office of Budget and Management said in its Monthly Financial Report. Expenditures are above estimate by $130.9 million, or 4.6%, through the first 11 months of the fiscal year.

The May GRF variance was attributable to Medicaid spending, which was above estimate by $266 million, or 22.1%, OBM reported. Across all funds, however, Medicaid spending was still below estimate by $146.9 million, or 6.1%.

For the fiscal year to date, GRF Medicaid spending is above expectations by $382.4 million, or 2.7%, and all funds spending is below by $211.4 million, or 0.8%.

OBM said the May all-funds variance was due to below-estimate spending across managed care, fee-for-service and administrative spending, OBM said. In managed care, rates were adjusted for January through June due to lower utilization caused by COVID-19. A MyCare payment was also delayed and won’t happen until the next fiscal year.

Increased enrollment in Medicaid offset the variance, as May enrollment was above estimate by 135,678, or 4.8%. Overall enrollment is up about 162,000 since the start of the coronavirus crisis.

"Cost savings measures and timing again masked the impact of the COVID crisis to overall monthly spending, however, enrollment increased by 67,000 and will continue increase along with costs," OBM said.

The Legislative Service Commission's Budget Footnotes also made note of the May caseload figures in Medicaid.

"The impact of the COVID-19 pandemic began to show in March and April's Medicaid caseloads," it said. "And the impacts continue to show in May's report. Medicaid experienced a total enrollment increase of nearly 20,000 in March. In April, this trend continued, with a total caseload increase of more than 75,000 cases. May's figures show a continuation of this trend, with a caseload increase of more than 67,000 cases."

The Medicaid variance was helped by education spending coming in well below estimates.
Primary and secondary education was under by $95.8 million, or 16.4%, for the month. OBM said that was due largely to the budget cuts implemented as a result of the revenue lost during the COVID-19 crisis.

Higher education spending was down $45.3 million, or 21.9%, compared to the projections, OBM said. Much of that – $41.7 million – was due to the administration's budget control measures in state share of instruction and other line items.

Other departments saw increased spending, such as the Department of Job and Family Services, which spent $19.8 million, or 58.8%, more than anticipated. OBM said that was due to changes in child care spending. An increase of $3.1 million was attributed to increased postage charges due to the pandemic.

**Revenue Projections:** OBM's report also detailed changes in budget revenue estimates for Fiscal Year 2021. The tax receipt estimates were revised down by $2.29 billion, or 9.4%.

Overall sales and use tax receipts were revised down by $1.47 billion, or 13.1%, with non-auto sales tax estimates down 13% and auto sales tax estimates down 13.8%. The personal income tax was revised down $660 million, or 7.2%, and the commercial activity tax was revised down $163 million, or 9.9%.

OBM said the most severe effects were expected in the current quarter, the last of FY 2020.

"Even recognizing the unique nature of the second quarter, the recession and its aftermath will have enduring negative consequences through fiscal year 2021," the report said. "First, for some GRF taxes there is a significant lag between economic activity and collection of revenue, which means the second-quarter economic shock is expected to have effects in fiscal year 2021.

"For example, commercial activity tax revenue for the first quarter of fiscal year 2021 will be adversely impacted because such revenue reflects taxable gross receipts activity during the April-June 2020 period. Second, the absolute levels of economic activity following the second quarter are anticipated to be well below those that were expected prior to the pandemic and incorporated into the as-enacted fiscal year 2021 revenue estimates."

The updated estimates could overpredict actual performance, especially if there is another significant outbreak of the coronavirus, OBM said.

"Such an outbreak, especially if coupled with one or more other adverse exogenous events, could trigger a 'double dip' recession," the report said. "Not all of the risk is to the downside; after all, it is possible the recovery could be even stronger than contained in the baseline forecast. Recognizing the risks, the update does reflect the current best prediction of how revenues in the next fiscal year will perform."

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