



# Local Impact Statement Report For Bills Enacted in 2021

Ohio Legislative Service Commission  
July 2022

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## Introduction

R.C. 103.143 requires the Legislative Budget Office (LBO) within the Legislative Service Commission to determine whether a local impact statement (LIS) is required for each bill that is introduced and referred to committee. An LIS may be required when a bill could result in net additional costs beyond a minimal amount to school districts, counties, municipalities, or townships. An LIS is not required for budget bills or joint resolutions. It is also not required when the bill is permissive or when the bill's potential local costs are offset by additional revenues, offset by additional savings, or caused by a federal mandate. The LIS determination is based solely on the "As Introduced" version of the bill and does not change, even if provisions originally causing the LIS requirement are removed in subsequent or the enacted versions of the bill. Under the statute, LBO is also required to annually compile the final local impact statements completed for laws enacted in the preceding calendar year. The 2022 Report lists the 71 bills enacted in calendar year 2021 and contains the fiscal notes for the three House bills and five Senate bills which required an LIS.

The LIS requirement is met through the detailed analysis of local fiscal effects included in LBO's fiscal notes. Regardless of whether a bill requires an LIS, the fiscal note analyzes the bill's fiscal effects on both the state and local government. However, under R.C. 103.143, when a bill requiring an LIS is amended in a committee, the bill may be voted out of the committee by a simple majority vote with a revised LIS (a requirement fulfilled by preparing an updated fiscal note) or by a two-thirds vote without a revised LIS. Because various bills are exempted from the LIS requirement, some bills enacted in 2021 may have fiscal effects on local government in addition to the eight bills that required an LIS. For those who are interested in the local fiscal effects of all legislation enacted in 2021, please see the LBO fiscal notes for those laws, which are available on the General Assembly's website ([legislature.ohio.gov](https://legislature.ohio.gov)) by clicking on *Legislation/Search Legislation*.

The Report contains comments from the County Commissioners Association of Ohio, the Ohio Municipal League, the Ohio Township Association, and the Ohio School Boards Association. LBO is required to circulate the draft Report to these associations for comment and to include their responses in the final Report. The final section of the Report is an appendix listing all 35 House bills and 36 Senate bills enacted in 2021.

To view this report online, see the [2022 Local Impact Statement Report \(PDF\)](#), which is available on LSC's website: [lsc.ohio.gov](https://lsc.ohio.gov).

**LOCAL GOVERNMENT ASSOCIATION  
COMMENTS**



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Cheryl Subler, Executive Director

The County Commissioners Association of Ohio (CCAO) thanks the staff of the Ohio Legislative Service Commission (LSC) for the opportunity to provide comments regarding the 2022 Local Impact Statement Report. This report is an important tool for state lawmakers and local government officials to track the impact of enacted legislation on local communities.

As noted in the report, not all bills are subject to the LIS requirement, thus the Local Impact Statement Report does not entirely capture the impact of state policy decisions on local governments. Primary among those exceptions is the state's biennial budget bill which, in addition to serving as an appropriation vehicle for state operations, also contains tax and other policy changes that significantly impact county revenues and expenditures.

To provide an example from H.B. 110 of the 134<sup>th</sup> General Assembly, the most recent Main Operating Budget, a provision exempted employment services and job placement services from the sales tax base. The Department of Taxation estimated at the time that counties and transit authorities would lose \$25.6 million in SFY 2022 and \$38.5 million in SFY 2023 due to this exemption.

The impact that certain budget provisions will have on local governments may sometimes be mentioned in the Comparison Document and departmental Greenbooks but it is inconsistent and decentralized. CCAO encourages LSC to produce an additional publication at the end of the budget process to provide Greenbook-level analysis of budgetary provisions that create an impact on local governments. Doing so will provide a great resource for the General Assembly and the public to understand the true picture of the impacts that tax and other policy changes have upon counties and other local governments.

Additionally, the local impact procedure for non-appropriations bills can be improved. R.C. 103.143 is the statutory authority for the local impact procedure. R.C. 103.143(C) requires that "[a]ny time a bill is amended, the legislative service commission shall, as soon as reasonably possible, revise the local impact statement to reflect changes made by amendment."

As noted in the statement's Introduction, LSC considers updating the comprehensive fiscal note as satisfying that requirement. While updating the overall fiscal note is certainly a sound procedure, the changes to the impact on local governments may get lost among other changes. CCAO recommends that fiscal notes for bills that will have an impact on local governments (regardless of if the official Local Impact Determination is a "Yes," as that may change depending on the content of amendments or substitute bills) have a specific section that highlights the fiscal effects the bill will have for local governments. This will allow the public and legislators to quickly see the local effects instead of requiring them to scan the fiscal analysis for certain key words.

Finally, the Local Impact Statement Report itself can be improved. In its current form it is typically structured with a brief introduction, followed by comments from local government associations, then copies of the fiscal notes for enacted bills that required local impact statements. The Report is usually concluded with an appendix that lists all the enacted bills from the year the report is prepared for.



A simple aggregation of fiscal notes, while helpful, does not provide the level of detail that an annual report can offer. CCAO believes that the annual report is an opportunity for LSC to expand upon the local impact component of its fiscal analysis for the given bills, whether through annotation of the As Enacted fiscal note, an entirely new analysis, or another method.

Since the Local Impact Statement Report is prepared for legislation enacted in the prior year, it is likely that many provisions of the bills in question have taken effect. These reports also provide an opportunity for LSC to follow up and provide a brief overview of the actual fiscal effects the bills have created. As is common with policy making at all levels of government, the effects that a law has when actually put in place may outstrip initial estimates, or vice versa.

Counties are closely tied to the state as the provider of state services at the local level on the state's behalf. Counties operate as local branches of state government, with most state programs and services being delegated to county government for implementation.

Counties rely upon a combination of permissive sales taxes, property taxes, charges for fees and services, intergovernmental revenue (including the Local Government Fund) and investment income to pay for these services. Because all these revenue sources are governed by statutory provisions, enacted legislation can significantly impact the counties' receipt of funds from these resources.

CCAO stresses the importance of reviewing local impacts on county operations and revenue streams. As counties work in partnership with the state to provide critical services to all Ohioans, a strong emphasis on limiting negative fiscal impacts to county government is critical.

CCAO again thanks the Legislative Service Commission for the opportunity to comment on this report and wishes to acknowledge the professionalism and expertise of the LSC staff.



Ohio Municipal League  
175 S Third St., Ste. 510  
Columbus, OH 43215

May 23, 2022

To Whom It May Concern;

The Ohio Municipal League has reviewed the draft of the Local Impact Statement Report for Bills Enacted in 2021 and would like to make the following comments:

The report provides helpful information to organizations representing local governments, their respective members and the public. This information would have otherwise been difficult to access or compile.

This document traditionally gives both lawmakers and administration leadership insight into how best to invest in our state's cities and villages and the impact of the actions taken by the legislature, both intentionally and any unintentional consequences.

As state budget bills are not included in the Local Impact Statement Report, the League respectfully requests that the legislature revise the policy requirements to include state budget bills in the report. This inclusion would demonstrate the impact that state legislation has on local governments.

We look forward to continuing to strengthen the partnership between Ohio's municipalities and the state in order to ensure a safe and prosperous future for our state and our citizens.

The Ohio Municipal League commends the staff of the Legislative Service Commission for the time and effort they put into this report.

Respectfully,

Kent Scarrett  
Executive Director  
Ohio Municipal League



# OHIO TOWNSHIP ASSOCIATION

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The Ohio Township Association (OTA) would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the 2022 Local Impact Statement (LIS) Report. The LIS Report is an important educational resource for our members and the members of the General Assembly as it highlights the effect previously passed legislation will have on townships' budgets and keeps legislators and local officials aware of any unfunded mandates created in legislation.

The fiscal impact legislation may have on townships is often underestimated, but the Legislative Service Commission has done a nice job of recognizing the impacts. A total of eight bills enacted in 2021 have a fiscal impact on local governments, according to the LIS Report. Of those eight bills, three have a direct impact to townships: SB 18, SB 57, and SB 166.

Senate Bill 57 authorizes a property tax exemption for housing used by individuals diagnosed with mental illness or substance use disorder and their families. SB 57 also makes three modifications – one permanent and two temporary – to the manner by which an administrative complaint may be filed and resolved against a property's assessed tax valuation or classification with a county board of revision. The majority of township revenue comes from the property tax and state/local tax sharing. It is important to note that many of these property tax levy funds are restricted by the Ohio Constitution and cannot be used for general purposes. Reduction in property valuations, permanent or temporary, will cause a reduction in a vital revenue stream for townships.

Senate Bills 18 and 166 have varying levels of impact on the Local Government Fund (LGF). SB 18 incorporates into Ohio income tax law changes made to the federal Internal Revenue Code since March 2020. SB 166 authorizes a nonrefundable tax credit against the state personal income tax for employers equal to 15 percent of the total wages paid to a student participating in a career-technical education program. Both of these bills have great intentions but both will have an inadvertent affect on the state's Local Government Fund, from which all townships benefit. Monies from the LGF are used in every community across the state and therefore affect every resident in Ohio. For most townships, the LGF is the second highest source of revenue for townships behind property tax collection of inside and outside millage. Townships do not have the ability to make up the lost LGF revenue by passing other taxes such as the income or sales tax. Any lost LGF revenue will require additional property tax levies.

While the 2022 LIS Report is a helpful review of legislation passed in the previous year and its impact to local governments, it does not give the full picture, as budget bills are not required to have an LIS and are not included in the report. The OTA encourages the General Assembly to consider including budget bills in these processes to give a more comprehensive look at local impact. Additionally, a procedure should be established by which local governments can contest new laws that are not fully funded to give the General Assembly adequate time to modify or fund the mandates they impose.

Although the actual impact these new laws will have on townships will not be known until the laws are put into practice, the fiscal analyses provide a base for which townships can determine how a new law may affect their budgets. The Ohio Township Association appreciates the opportunity to provide our input and thanks the Legislative Service Commission for all of their hard work in compiling this data, as it is truly beneficial to legislators and local government groups.





Ohio School Boards  
Association

TO: Terry Steele, Senior Budget Analyst

FROM: Richard Lewis, Chief Executive Officer  
Jennifer Hogue, Director of Legislative Services

DATE: July 11, 2022

RE: **2022 LOCAL IMPACT STATEMENT REPORT**

The Ohio School Boards Association (OSBA) is pleased to take advantage of the opportunity to review the 2022 Local Impact Statement Report on bills enacted in 2021. The Legislative Service Commission (LSC) report to the Ohio General Assembly and to the public on the fiscal impact of certain specific bills is a valuable service.

The 2022 Local Impact Statement Report highlights 8 bills enacted during 2021 that require local impact statements. Three of the 8 bills have potentially negative fiscal impact on the level of revenues available to support public school districts. These three bills are House Bill (HB) 244, Senate Bill (SB) 1 and SB 57.

OSBA strongly believes and reiterates its longstanding desire to see even more bills subject to having fiscal impact statements prepared. This is particularly true for omnibus bills, such as the biennial budget bill. We do, however, appreciate the opportunity to review and comment on these specific bills.

HB 244 requires school districts to allow students from military families to participate in remote, technology-based education when their families are transitioning from one military base to another. Districts that offer remote education may have additional costs to serve students from military families. Costs are estimated to range from \$2,400 to \$4,200 per semester for each student that chooses to participate in the remote option.

SB 1 requires student entering ninth grade for the first time during or after the 2022-2023 school year to take one-half unit of financial literacy instruction. While we support financial literacy instruction, we are concerned about the costs of implementing the unfunded mandates in this bill.

Some districts will need to hire new teachers and/ or update their curriculum to meet the requirements of SB 1. It is estimated that new staffing costs could be in the millions of dollars statewide. No estimated cost for curriculum updates has been provided since there will be so much variation from district to district.

*OSBA leads the way to educational excellence by serving Ohio's public school board members and the diverse districts they represent through superior service, unwavering advocacy and creative solutions.*

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SB 1 also requires, beginning with the 2024-2025 school year, that instructors have either a license validation in financial literacy or a license in social studies, business education, marketing education or family and consumer sciences. SB 1 requires that districts cover any costs necessary for an individual to meet the license validation requirements. The bill creates the High School Financial Literacy Fund and provides up to \$1.5 million in unclaimed funds to reimburse districts the lesser of \$500 or the actual cost of the validation. While we appreciate the creation of the fund, it is unknown if this appropriation will be enough to cover the cost of this requirement. If funding is not sufficient, districts will need to bear the excess cost of this mandated provision.

SB 57 makes several changes to property tax law. The bill allows special reductions in property tax value for circumstances related to COVID-19. It is estimated that, based on this change, tax revenue to school districts and other local government units will decline by around \$35 million.

The bill also allows certain commercial and industrial property tenants to file property tax valuations complaints if the tenants are required under the lease agreement to pay the entire amount of taxes charged against the property, and the landlords allow the tenants to file the complaints or counterclaims. This provision applies to tax year 2021 and any tax year thereafter. This new provision very well could lead to lower tax valuations and in turn lower revenue for local governments including school districts.

Additionally, the tax exemptions and credits made available through individual bills continue the trend of lower and lower state revenues available to support common and public purposes, including the education of Ohio's children. Appropriate funding for the education of Ohio's children is an ongoing concern for boards of education and should be shared by all of Ohio's citizens.

Once again, OSBA wishes to express appreciation to the Legislative Service Commission for its hard work and diligence on this important task. We look forward to working with you now and in the future.

**FISCAL NOTES FOR BILLS ENACTED  
IN 2021 REQUIRING  
LOCAL IMPACT STATEMENTS**



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 122**  
**134<sup>th</sup> General Assembly**

## Fiscal Note & Local Impact Statement

[Click here for H.B. 122's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Reps. Fraizer and Holmes

**Local Impact Statement Procedure Required:** Yes

Nelson V. Lindgren, Economist, and other LBO staff

### Highlights

- The bill's prohibition against health insurers imposing cost-sharing requirements related to specified types of communication, and its adding new health care providers to the list of those whose telehealth services must be reimbursed by health insurers have the potential to increase costs for the state and local governments to provide health benefits to employees and their dependents.
- Any increase in costs to the state health benefit plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds.
- The prohibition is also likely to increase costs to local governments' health benefit plans, though LBO staff are uncertain about the extent of such increase.
- The bill may increase the Department of Insurance's administrative cost to monitor compliance with the bill's provisions. Any increase in such cost would be paid from the Department of Insurance Operating Fund (Fund 5540).<sup>1</sup>

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<sup>1</sup> Revenue to Fund 5540 comes from various fees imposed on insurance companies, primarily insurance agent license fees and agent appointment fees.



- The bill permits specified health care professionals to provide telehealth services according to specified conditions and standards. Relevant licensing boards could realize an increase in costs to adopt rules, educate licensees, and ensure compliance.
- The bill codifies the types of medical practitioners which are eligible for Medicaid coverage via telehealth. The Ohio Department of Medicaid (ODM) filed updated rules to make telehealth permanently available to enrollees. These rules became effective in November 2020. Most of the practitioners in the bill are currently allowed to provide telehealth services and receive reimbursements under these rules. To the extent that the bill adds practitioners or services or results in changes to procedures, there could be some costs.
- The bill requires ODM to establish a credentialing program, to include a credentialing committee, that will review care metrics of Medicaid providers. ODM is permitted to adopt rules as needed to establish this program. These provisions may create administrative costs for the Department.

## **Detailed Analysis**

### **Health insurers**

Current law requires a health benefit plan to provide coverage for telehealth services on the same basis and to the same extent that the plan provides coverage for in-person health care services.<sup>2</sup> It allows a plan to impose cost-sharing requirements with regard to such telehealth services, as long as the requirements do not exceed those for equivalent in-person health care services.

The bill prohibits a health benefit plan from imposing cost-sharing<sup>3</sup> requirements in regard to telehealth services delivered via a communication when (1) the communication was initiated by the health care professional, (2) the patient consented to receive a telehealth service from that provider on any prior occasion, and (3) the communication is conducted for the purposes of preventive medicine only. The bill prohibits health care professionals from charging certain fees to the health benefit plan or patients who are receiving such telehealth services. The bill also adds new types of health care professionals to the list of those whose telehealth services must be reimbursed by health benefit plans. Under current law, only the services of licensed physicians, physician assistants, and advanced practice registered nurses must be reimbursed. The bill adds pharmacists,<sup>4</sup> optometrists licensed to practice under a therapeutic pharmaceutical agents certificate, licensed psychologists, school psychologists, chiropractors, audiologists,

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<sup>2</sup> Enacted in H.B. 166 of the 133<sup>rd</sup> General Assembly, the requirement applies to health benefit plans issued, offered, or renewed on or after January 1, 2021. The bill removes this effective date. Also, current law uses the terminology “telemedicine services,” while the bill refers to “telehealth services.”

<sup>3</sup> “Cost-sharing” means the cost to a covered individual under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan.

<sup>4</sup> The bill specifies that a pharmacist must dispense a dangerous drug under a telehealth mechanism only if authorized to do so under rules adopted by the State Board of Pharmacy.

speech language pathologists, occupational and physical therapists, occupational and physical therapy assistants, professional clinical counselors, independent social workers, independent marriage and family therapists, independent chemical dependency counselors, dietitians, respiratory care professionals, genetic counselors, and a certified Ohio behavior analyst to the list of health care professionals.

The bill allows the Superintendent of Insurance to adopt any necessary rules to carry out its provisions. The bill applies to “health benefit plans” as defined under existing law in section 3922.01 of the Revised Code, which includes public employees’ health benefit plans.

Telehealth services are currently covered in the state’s health benefit plan. However, the bill’s prohibition against cost sharing for telehealth services delivered via specified types of communication and its expansion of the types of health care professionals whose telehealth services must be reimbursed may increase costs to the state and local governments to provide health benefits to employees and their dependents. Any increase in costs to the state health benefit plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees’ health benefits, which come out of the GRF and various other state funds. LBO staff could not determine the magnitude of the bill’s fiscal impact on counties, municipalities, townships, and school districts statewide due to lack of information on the number of plans that do not currently comply with the bill’s requirements. To the extent that a particular local government’s health benefit plan complies with the bill’s requirements, there would be no impact on its costs.

The bill may increase the Department of Insurance’s administrative costs for regulating health insurers. Any increase in the Department’s administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).

## **Health care professionals and telehealth services**

The bill permits specified health care professionals to provide telehealth services and requires those services be provided according to specified conditions and standards. The bill specifically states that it must not be interpreted as altering any laws or rules relating to the practice of dentistry that are in effect on the bill’s effective date. The bill allows a physician who holds a certificate to recommend a patient to be treated with medical marijuana to conduct the required patient examination either in person or through telehealth services before recommending medical marijuana to such patient. For purposes of rules regarding telehealth services adopted by a board, the bill specifies that medical marijuana is not considered a schedule II controlled substance.

In addition, the bill permits certain health care licensing boards to adopt rules as necessary to carry out the bill’s provisions regarding the provision of telehealth services, and requires that any rules adopted by a board generally establish the standard of care for telehealth services to be the same as the standard for in-person services. As a result, it is possible that certain boards may realize costs to adopt rules and any other necessary administrative measures to comply with the bill, including costs to educate licensees or ensure compliance. The bill outlines some requirements regarding the provision of telehealth services, and allows a board to

adopt rules that generally require an in-person examination of a new patient in specified circumstances, and allows a board to suspend enforcement of rules in effect on the bill's effective date while the board amends or adopts new rules that are consistent with the bill. It is possible that there could be some costs to comply with these provisions for state or local government entities that hire individuals who hold health care licenses impacted by the bill.

The bill also provides that a health care professional is not liable in damages under a claim that telehealth services provided do not meet the standard of care that would apply if services were provided in person. This might decrease any associated civil court case costs.

## **Medicaid**

Existing law requires the Ohio Department of Medicaid (ODM) to establish, through rulemaking, standards for Medicaid payments for health care services that the Department determines are appropriate to be covered by the Medicaid Program when those services are provided as telehealth services. The bill requires the Department to adopt rules to authorize the directors of other state agencies that administer portions of the Medicaid Program to adopt rules regarding Medicaid coverage of telehealth services. In addition, the bill specifies the categories of medical practitioners which are eligible to provide telehealth services under Medicaid. During the COVID-19 emergency, the Ohio Department of Medicaid issued emergency rules and policies which permitted many telehealth services to be performed by Medicaid providers and be paid for by Medicaid.<sup>5</sup> In November 2020, updated telehealth rules filed by the Ohio Department of Medicaid became effective. The rules outlined the practitioners who could perform telehealth services, the provider types that can bill for services, the services that can be rendered, and provider responsibilities.<sup>6</sup> Many of the same practitioners outlined in rules are specified in the bill, so many telehealth services appear to be reimbursable under Medicaid now. To the extent that the bill adds practitioners or services or results in changes to procedures, there could be some costs.

The bill requires ODM to establish a credentialing program, to include a credentialing committee, that will review the competence, professional conduct, and quality of care provided by Medicaid providers. The Department is permitted to adopt rules to implement this program. Developing and adopting these rules, as well as administering the committee, may create administrative costs for the Department.

## **Mental health and addiction services telehealth provision**

Under existing law, the Ohio Department of Mental Health and Addiction Services (OhioMHAS) certifies community mental health service providers and community addiction service providers. The bill specifies requirements that these providers must meet to provide telehealth. The bill allows OhioMHAS to adopt rules as necessary to carry out the bill's requirements. There could be costs associated with rule adoption and possibly to ensure that these certified providers comply.

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<sup>5</sup> ODM Emergency Rule 5160-1-21 Telehealth during a state of emergency and associated appendix.

<sup>6</sup> Ohio Administration Code 5160-1-18.

## **Assistance for individuals with developmental disabilities**

The bill also provides for an individual who has been diagnosed with a permanent disability in need of surgery or any other health care procedure, test, or clinical care visit to have a parent or guardian present with them during a health care appointment or procedure if the presence is necessary to alleviate any negative reactions that may be experienced by the individual. This provision specifically addresses that an individual with a permanent disability is entitled to have a parent or guardian present during a public health emergency or pandemic, etc. The bill specifies that the Director of Health has the authority to take any actions which are necessary to enforce these provisions.

## **One-Bite Program**

The bill modifies the One-Bite Program established by the State Medical Board by allowing applicants for licensure to participate. The bill also specifies that an applicant for licensure who discloses to the Board previous impairment and satisfies certain conditions is not subject to discipline for that impairment. If the Board grants an applicant a license to practice, it must refer the now-practitioner to the monitoring organization that conducts the One-Bite Program. The practitioner is required to enter into a monitoring agreement with the monitoring organization conducting the program. Any costs would depend on the number of eligible applicants. However, practitioners are responsible for costs associated with participating in the program.

## **Suspension of open enrollment, reinsurance, and option for conversion programs**

The bill would extend until January 1, 2026, the current suspension of the enforcement of (1) Ohio's Open Enrollment Program, (2) Ohio's Health Reinsurance Program, and (3) the option for conversion (a) from a group to individual contract under an existing contract with a health insuring corporation (HIC), (b) from a nongroup contract to a contract issued on a direct payment basis under an existing contract with an HIC, and (c) from a group policy to an individual policy under an existing policy with a sickness and accident insurer. Under current law, the suspension began on January 1, 2014, and would expire on January 1, 2022. The provisions have no direct fiscal effect.





# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 133  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 133's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Hillyer

**Local Impact Statement Procedure Required:** Yes

Shannon Pleiman, Senior Budget Analyst

### Highlights

- **Ohio Residential Mortgage Lending Act.** The bill may minimally increase the number of mortgage lenders, servicers, or brokers registered under the Ohio Residential Mortgage Lending Act overseen by the Department of Commerce. The annual registration fee is \$500 per office location and deposited into the Consumer Finance Fund (Fund 5530).
- **GrowNOW.** The bill removes specific interest rate requirements under the Treasurer of State's existing business linked deposit program, or GrowNOW. Each linked deposit marginally reduces GRF revenue by the difference between investment earnings at the linked deposit rate and counterfactual investment earnings at the market interest rate.

### Detailed Analysis

The bill makes several changes to various laws and programs including the Ohio Residential Mortgage Lending Act and the business linked deposit program (GrowNOW) overseen by the Treasurer of State. The bill also changes the process by which commercial credit reports are handled. The fiscal effects of these provisions are discussed below. Many of the provisions in the bill do not have any fiscal effects on the state or political subdivisions. For more detail on all of the bill's provisions, please consult the LSC bill analysis.

### Ohio Residential Mortgage Lending Act

The bill makes several changes to the Ohio Residential Mortgage Lending Act (ORMLA) overseen by the Department of Commerce. One of the changes eliminates the existing requirements that a mortgage lender, servicer, or broker maintain an office location in the state

and instead requires that the office be located in any U.S. state. As a result, the Department anticipates that the number of individuals registered by Ohio as mortgage lenders, servicers, or brokers may increase by a minimal amount. The annual registration fee is \$500 per office location. These fees are deposited into the Consumer Finance Fund (Fund 5530). In FY 2020, there were over 2,000 registrants.

The bill also revises certain conditions under which people who sell manufactured homes, mobile homes, and industrialized units are exempt from registration and licensure requirements under the ORMLA. Specifically, the bill includes manufactured home park operators under this exemption. A current law restriction prohibiting any of the individuals mentioned above from discussing loan rates or terms or helping borrowers with loan applications is removed by the bill. Taken together, these changes could potentially decrease the number of mortgage loan originator licensees by an unknown amount. The annual license fee is \$150 and deposited into Fund 5530.

The other changes the bill makes to the ORMLA do not appear to have a fiscal effect on the Department. Among these changes include (1) eliminating the temporary mortgage loan originator license and (2) exempting entities making fewer than five residential mortgage loans annually from the ORMLA. According to the Department, one temporary license was issued in FY 2020 and currently there are no such active licenses.

## **GrowNOW**

The bill modifies statutes governing the Treasurer of State's (TOS) existing business linked deposit program, or GrowNOW. In concept, a linked deposit program encourages a financial institution to issue reduced-interest loans to targeted groups by agreeing to commit the deposit of state funds into the financial institution at a below-market interest rate.

The GrowNOW Program reduces interest rates paid by participating small businesses on loans under \$400,000 in value. Under existing law, the interest rate reduction is set at either 2.1% or 3.0%, depending on the loan's current market interest rate; under the bill, the interest rate reduction offered on these loans would be placed under the discretion of the TOS. Each linked deposit marginally reduces GRF revenue by the difference between investment earnings at the linked deposit rate and counterfactual investment earnings at the market interest rate. The portfolio value of the GrowNOW Program was \$23.8 million as of November 2020.

## **Provisions with no apparent fiscal effect**

The bill also contains provisions related to contracts consumers have with credit services organizations and the ability of a business to obtain credit reports from commercial credit reporting agencies. Neither provision appears to have any fiscal effect. Specifically, the bill modifies the allowable duration of a contract that a credit services organization has to provide services to a consumer from a current law limit of 60 days to 12 months as long as certain criteria are met. Credit services organizations offer credit repair and debt counseling advice and services. Currently, there are 24 credit services organizations licensed by the Department of Commerce's Division of Financial Institutions.

The bill also contains a provision requiring a commercial credit reporting agency to provide a credit report to a business that is the subject of the report, when requested, at no greater cost than what is charged to third parties. It also establishes a procedure by which such a business may dispute information contained in a credit report. There is no apparent fiscal effect related to this provision.

Lastly, the bill establishes that the statute of limitations for legal malpractice claims relating to an opinion of title (an attestation to the validity of a title deed to a parcel of property) issued prior to June 16, 2021, is one year after the cause of action accrued without regard to when the alleged basis of the claim occurred. The bill declares an emergency as it regards this provision, meaning that this particular change to R.C. 2305.117 goes into effect immediately.



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**H.B. 244**  
**134<sup>th</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for H.B. 244's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Reps. White and Lampton

**Local Impact Statement Procedure Required:** Yes

Sarah Anstaett, LSC Fellow, and other LBO staff

### **Highlights**

- Some school districts and other public schools that offer remote education options may incur additional costs to provide technology-based educational opportunities to children of military families while the families are transitioning from one military installation to another. For example, a district or school relying on a third-party educational provider may incur costs of between \$2,400 and \$4,200 per semester, or \$25 to \$50 per day, for each additional student that opts for this education under the bill.
- The bill allows the Ohio Department of Health (ODH) to quarantine or isolate certain individuals under certain circumstances and requires ODH to provide isolated or quarantined individuals with necessities such as transportation, food, and medical testing and treatment. It also prohibits public schools and state institutions of higher education from requiring certain mandatory vaccinations. The fiscal effects of these provisions are uncertain.

### **Detailed Analysis**

#### **Technology-based educational opportunities**

The bill requires school districts and other public schools to permit children of military families to participate in technology-based educational opportunities to minimize disruptions when those students' families transition from one military installation to another. Children of military families may participate in technology-based educational opportunities beginning when the students' parents receive permanent change of station orders to or within Ohio as well as



from Ohio until such time as the student is enrolled in the student's new school. To facilitate the opportunities for students transitioning into the state, the bill also requires school district boards of education to permit children of military families who relocate to Ohio and are not yet district residents to apply to enroll in the district at the same time as students residing in the district and to accept enrollment applications electronically. The bill requires a uniformed service member parent to provide proof of residence in a school district within ten days after establishing residence in a new school district.

School districts and other public schools that offer technology-based educational opportunities may incur additional costs to provide this education to children of transitioning military families that opt for it and otherwise would not have been given the option. However, if a district or school does not offer technology-based educational opportunities to enrolled students, the bill does not appear to create a requirement that it establish a remote learning option if a district or school does not already have one.

According to the Buckeye Association of School Administrators (BASA), the vast majority of school districts have experience providing remote education for students who are not able to attend school in person. For example, prior to the COVID-19 pandemic, students experiencing medical issues requiring long-term rehabilitation or with other special circumstances may have received remote instruction. In addition, the COVID-19 pandemic prompted districts and schools to expand remote education options. At least 72% of districts and schools offered some form of remote education for part of the 2020-2021 school year. Even in schools with in-person instruction, quarantine guidelines required remote education for certain students in 2020 and 2021. While data from the spring of 2021 suggests districts and schools are striving to return students to classrooms,<sup>1</sup> BASA indicated many districts have found remote education to be a helpful tool and will continue providing options for remote learning after the pandemic ends.

Districts and schools that offer remote learning opportunities may do so in a number of ways. Some districts may be able to provide these opportunities directly using district staff and resources. BASA indicated that others may contract with a third-party education provider. Districts and schools contracting with a provider may have a contract on a per-student basis or a "flat" contract. BASA indicated that contracts on a per-student basis are more common than flat contracts. Contracts on a per-student basis typically cost between \$400 and \$700 per student for one semester long class. A semester of six classes, therefore, might range from \$2,400 to \$4,200 per student. This equates to a cost of roughly \$25 to \$50 per student per day for six classes. However, the provider may require a district or school to purchase each class for a full semester, regardless of the number of days the class is needed. A flat contract generally entails services for a certain number of classes based on the school's size or for a certain number of students or "seats." The cost of a flat contract will vary based on the classes purchased and number of students educated. However, BASA indicated that prices generally range from \$2,000 to \$4,000 for a given flat contract.

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<sup>1</sup> See <http://education.ohio.gov/Topics/Reset-and-Restart/Data-Insights-on-the-2020-2021-School-Year>.

## **ODH authority – quarantine and isolation; vaccinations**

The bill specifies that the Ohio Department of Health's (ODH) authority in matters of quarantine and isolation allows ODH to quarantine or isolate individuals traveling to Ohio from another country for which the U.S. Centers for Disease Control and Prevention has issued the highest level of travel health notice due to an outbreak of communicable or contagious disease in that country, and such notice is currently in effect at the time an individual arrives in Ohio, for a period of up to 48 hours from the time the individual arrives in Ohio, regardless of whether the individual has been medically diagnosed with, or come into direct contact with an individual who has been medically diagnosed with, that disease. The bill also requires ODH to provide the quarantined or isolated individual with transportation, lodging, food, and any necessary medical examination, testing, or treatment during that period.

The bill prohibits public schools and state institutions of higher education from requiring an individual to receive a vaccine not granted full approval from the U.S. Food and Drug Administration. The bill also prohibits discrimination against an individual who has not received such a vaccine, including by requiring the individual to engage in or refrain from engaging in activities or precautions that differ from the activities or precautions of an individual who has received such a vaccine. This provision of the bill does not apply to hospitals and health care facilities owned or operated by or affiliated with a state institution of higher education.

The fiscal effects of these provisions are uncertain.



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**S.B. 1**  
**134<sup>th</sup> General Assembly**

## Fiscal Note & Local Impact Statement

[Click here for S.B. 1's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Sens. Wilson and McColley

**Local Impact Statement Procedure Required:** Yes

Sarah Darnell, LSC Fellow

### Highlights

- Some school districts and other public schools may incur costs to hire new teachers and update curriculum to implement the bill's requirement that financial literacy instruction consist of at least one-half unit (practically, a semester) in a stand-alone course for students that enter ninth grade on or after July 1, 2022 (the classes of 2026 and onward). New staffing costs may total in the millions of dollars statewide. Curriculum-related costs will depend on existing course offerings with financial literacy instruction and other factors.
- The bill requires up to \$1.5 million of unclaimed funds to be transferred to the newly created High School Financial Literacy Fund, a custodial fund, to reimburse school districts, other public schools, educational service centers, and nonpublic schools, for the cost of the additional teaching license validation the bill requires for certain teachers to teach financial literacy beginning in the 2024-2025 school year (FY 2025). Reimbursements per teacher are the lesser of \$500 or the actual cost of training.
- The bill provides districts and schools more flexibility in hiring substitute teachers for the 2021-2022 school year (FY 2022) only. A greater pool of substitute teachers may decrease costs in FY 2022 for some districts and schools that are addressing a shortage of substitute teachers by assigning contract teachers to use planning periods to cover additional classes, as it may cost less for a district or school to pay a substitute teacher than to pay contract teachers supplemental amounts for coverage. The bill may also minimally increase Ohio Department of Education (ODE) administrative costs from and revenues to the Teacher Licensure and Certification Fund (Fund 4L20).

## Detailed Analysis

### Curriculum requirements

To receive a high school diploma from a public school or chartered nonpublic school, a student must complete a minimum of 20 units of study in specific subject areas (one unit generally equates to a minimum of 120 hours of instruction). The subject areas and the state minimum units are listed in the table below. In addition to the general subject areas, current law requires a student to receive instruction in economics and financial literacy integrated into one of the required social studies units or another course that they take.

Under current law, the manner in which financial literacy instruction is integrated into a district or school's curriculum is a local decision. The Ohio Department of Education (ODE) indicates that some districts may incorporate financial literacy content into another course while others may require students to take a stand-alone financial literacy course for one-half unit that can meet either a graduation requirement for social studies or an elective. It is unclear how many districts have opted for a stand-alone course, though the Buckeye Association of School Administrators (BASA) indicated that many school districts embed financial literacy into their social studies curriculum.

Current Law State Minimum Curriculum Requirements	
Subject Area	Unit Minimum
English Language Arts	4 units
Mathematics	4 units
Science	3 units
Social Studies	3 units
Health	0.5 units
Physical Education	0.5 units
Electives	5 units
<b>Total</b>	<b>20 units</b>

### Financial literacy course requirement

The bill modifies the state minimum curriculum to require students entering ninth grade for the first time on or after July 1, 2022 (the class of 2026) to take one-half unit of financial literacy instruction (equating to at least 60 hours of instruction or, practically, a semester course). The bill also removes the requirement that schools integrate the study of economics and financial literacy into social studies units or other classes. The bill does not increase the overall minimum



20 units required but rather allows students to (a) complete one-half unit of financial literacy as an elective or (b) complete one-half unit of financial literacy and one-half unit of a mathematics course to fulfill one unit of mathematics instruction, except that the one-half unit mathematics course cannot be in algebra II, a course equivalent to algebra II, or a course for which a state end-of-course examination is required. Currently, the required mathematics end-of-course examinations are in algebra I and geometry. Also, the bill requires students who, under continuing law, choose to take one unit of advanced computer science in lieu of one unit of algebra II to complete the one-half unit of instruction in financial literacy as an elective, as the bill prohibits them from completing one-half unit of financial literacy instruction to satisfy the mathematics unit requirement.

The bill exempts from the financial literacy requirement students who attend a chartered nonpublic school or nonpublic school accredited through the Independent Schools Association of the Central States (ISACS) and are not using a state scholarship to attend the school.

### **New teachers**

The primary expense associated with the requirement is the possibility of hiring additional teachers. An official with BASA indicated that most districts would use a teacher already on staff to teach the newly required financial literacy course, potentially by reducing curricular offerings. However, BASA also indicated that some larger districts may need to hire one or more new teachers to solely teach the one-half unit course. The number of new teachers required will vary by school district. As a point of reference, the average starting salary for new teachers in urban and suburban school districts was roughly \$41,000 in FY 2020, according to survey data from the Ohio Education Association. Fringe benefit costs represent about 40% of salaries, for total salary and benefit costs averaging about \$57,000 per beginning teacher. If more experienced or educated teachers are hired, the cost would be greater. The overall costs of the requirement may be significant, potentially reaching into the millions of dollars or more statewide. The following scenario illustrates the potential cost. If, hypothetically, the 178 urban and suburban school districts hired an average of one new beginning teacher, the additional salary and benefits cost would be around \$10 million statewide (\$57,000 per teacher x 178 teachers).

### **Curriculum modifications**

Some school districts and other public schools may incur costs to update their high school curriculum to implement the bill's changes, the amount of which will depend on existing financial literacy course offerings, local implementation decisions, and course choices made by students. School districts and other public schools may use the financial literacy model curriculum that the State Board of Education adopted in November 2019 to inform any necessary financial literacy curriculum updates.<sup>1</sup> ODE also provides on its website links to various additional curriculum resources on the subject.<sup>2</sup> Additionally, there may be arrangements in which businesses or other

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<sup>1</sup> Ohio Department of Education, "Ohio's Model Curriculum: Financial Literacy, Adopted November 2019." Available online at this [link](#).

<sup>2</sup> Ohio Department of Education, "Resources for Financial Literacy." <http://education.ohio.gov/Topics/Learning-in-Ohio/Financial-Literacy/Resources-for-Financial-Literacy>.

charitable organizations donate financial literacy curriculum and materials to public schools. In fact, the bill specifically allows schools to utilize public-private partnerships that exist in business and industry while developing curriculum. Districts and schools also may need to (a) condense some existing one-unit mathematics courses into one-half unit courses for students who elect to complete one-half unit of financial literacy as part of the mathematics curriculum requirements and (b) expand social studies curriculum to cover the instructional time that is currently devoted to economics and financial literacy.

## **Educator license financial literacy validation**

According to ODE, teachers with licenses in the fields of social studies, business education, marketing education, and family and consumer sciences are all currently licensed to provide financial literacy instruction. Beginning in the 2024-2025 school year, the bill generally requires each public school and chartered nonpublic school to require an individual that does not have one of the aforementioned licenses to have an educator license validation in financial literacy to provide this instruction. The bill also exempts chartered nonpublic schools and nonpublic schools accredited through ISACS from complying with the licensure validation requirement if the school does not have any students attending it using a state scholarship (students attending these schools are also exempt from the financial literacy requirement, unless they attend the school using a state scholarship).

The bill requires districts and other public schools to cover any costs necessary for an individual to meet the requirements for the license validation. Since the State Board of Education must establish an advisory committee to consult on rules regarding the license validation, the acceptable programs and their associated costs are uncertain. One potential option may be the National Financial Educators Council, which offers a certification for financial education instructors. The fee for initial certifications is \$297 with an annual renewal cost of \$97. To obtain the certification, an individual must complete 40 hours of training (although it is possible to test out of some hours) and complete an examination. More extensive training requirements presumably would carry a higher cost.

The bill provides up to \$1.5 million of unclaimed funds to reimburse school districts, other public schools, educational service centers, and chartered nonpublic schools for the costs necessary for an individual employed by the entity to meet the license validation requirements. ODE must reimburse the district or school, per teacher, the lesser of \$500 or the total cost incurred by the teacher to obtain the license validation. If the \$1.5 million is insufficient to cover all reimbursement requests, the Department may limit the number of teachers for which a district or school can request reimbursement or prorate reimbursement amounts.

The bill creates the High School Financial Literacy Fund, a custodial fund outside the state treasury, to receive the unclaimed funds. The Treasurer of State will transfer money in this fund to ODE to reimburse schools for the cost of teachers obtaining a financial literacy license validation. ODE may use a portion of the fund to administer the reimbursement program. ODE and the Department of Commerce, which oversees unclaimed funds, must enter into an agreement specifying the terms of repayment from moneys in the fund, including interest, to fully reimburse the amount of unclaimed funds remitted to the fund. The repayment schedule cannot exceed a period of five years. If ODE fails to repay the Department of Commerce according

to the agreement, the bill states that it is the intent of the General Assembly that the amount of cash owed under the repayment plus the applicable interest must be paid from the General Revenue Fund.

## **Substitute teachers**

Generally, educator licenses, permits, or certificates issued by the State Board of Education for teaching grades K-12, including serving as a substitute teacher, require at least a bachelor's degree. The bill permits school districts, community schools, STEM schools, educational service centers, and chartered nonpublic schools to employ an individual who does not have a postsecondary degree as a substitute teacher, for the 2021-2022 school year only, as long as the individual (a) meets the district's or school's set of educational requirements, (b) the individual is deemed to be of good moral character, and (c) the individual successfully completes a criminal background check. The State Board of Education must issue nonrenewable temporary substitute teaching licenses to such individuals for the 2021-2022 school year only. This provision is declared an emergency and, thus, goes into immediate effect. A similar provision, effective January 7, 2021, was enacted for the 2020-2021 school year in H.B. 409 of the 133<sup>rd</sup> General Assembly.

The provision gives districts and schools more flexibility in hiring substitute teachers for the rest of the school year, which may increase the pool of available teachers. If so, the provision also may lead to a decrease in school district expenditures in FY 2022. Some school districts and other public schools may be addressing substitute teacher shortages by assigning contract teachers to use a planning period to cover classes for which a substitute teacher is not available. Contract teachers generally are paid supplemental amounts for each of these "substitute periods." It may cost less for a district or school to pay a substitute teacher than to pay the supplemental amounts to contract teachers. A substitute teacher earns, on average, roughly \$100 per day.<sup>3</sup> In contrast, the supplemental amounts paid to contract teachers for substitute periods appear to hover around \$25 per period (equating to up to \$200 per day depending on the number of periods in the school day) based on a limited review of a number of school district collective bargaining agreements across a range of different district types.

The provision may minimally increase ODE administrative costs from and revenues to the Teacher Licensure and Certification Fund (Fund 4L20). A one-year substitute teacher license carries a fee of \$25. As a point of reference, ODE issued 1,294 temporary substitute teacher licenses not requiring a bachelor's degree in FY 2021 under the authority granted by H.B. 409 (ODE newly issued or renewed 15,124 regular substitute teacher licenses during the same fiscal year).

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<sup>3</sup> [National Substitute Teachers Alliance](#).



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**S.B. 2**  
**134<sup>th</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for S.B. 2's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Sen. Gavarone

**Local Impact Statement Procedure Required:** Yes

Ryan Sherrock, Economist, and other LBO staff

### **Highlights**

- Generally, inpatient competency evaluations may no longer be conducted at facilities operated by the Ohio Department of Mental Health and Addiction Services (OhioMHAS) or the Ohio Department of Developmental Disabilities (ODODD) for defendants charged with nonviolent misdemeanors unless the court determines the defendant is in need of immediate hospitalization. Approximately 15 defendants with nonviolent misdemeanor charges received inpatient competency evaluations at these facilities during calendar year 2018. Thus, these facilities may realize a decrease in costs.
- The Ohio Association of County Behavioral Health Authorities anticipates that costs for county alcohol, drug addiction, and mental health services (ADAMHS) boards could increase due to the evaluation or restoration provisions within the bill if the payer is shifted or if additional services are provided. The magnitude is uncertain, but will depend on several factors including the number of additional people utilizing services and the types of services rendered, as well as if any patient or third-party reimbursements are received. In addition, local courts and any other government programs that pay for treatment services could realize an impact to costs.
- Municipal, county, and common pleas courts could see additional expenses due to the bill's additional hearing and notification requirements.
- The bill enters Ohio into the Psychology Interjurisdictional Compact (PSYPACT). As a result, the State Board of Psychology may pay annual assessments of up to \$6,000 per

year. In addition, the Board will have additional administrative costs related to regulation, investigations, rule promulgation, and notification requirements.

## **Detailed Analysis**

### **Competency evaluations in certain state facilities**

The bill prohibits a court from ordering a criminal defendant to undergo inpatient competency evaluations at a center, program, or facility operated or certified by the Ohio Department of Mental Health and Addiction Services (OhioMHAS) or the Ohio Department of Developmental Disabilities (ODODD) unless the defendant has been charged with a felony or an offense of violence or unless the court determines the defendant is in need of immediate hospitalization. OhioMHAS estimates that for calendar year 2018,<sup>1</sup> 15 individuals had been charged with a nonviolent misdemeanor and ordered to receive an inpatient evaluation at a state OhioMHAS hospital. In FY 2020, the average daily cost per resident was about \$688.<sup>2</sup> If all 15 of these individuals stayed the full 20 days, the inpatient evaluation cost would be approximately \$206,000 (15 individuals x \$688 x 20 days). As a result, OhioMHAS hospital costs may decrease.

In 2018, ODODD indicated that they rarely conduct inpatient competency evaluations for individuals charged with a nonviolent misdemeanor. Due to the rarity of evaluations in these circumstances, the bill should have a minimal to negligible fiscal impact to ODODD.<sup>3</sup>

Under current practice, the cost for an evaluation outside of a state facility is borne by either the court or the county alcohol, drug addiction, and mental health services (ADAMHS) boards depending on the county. Costs could increase locally if evaluations are shifted out of state facilities. The magnitude is uncertain, but will depend on several factors including the number of additional people utilizing services and the types of services rendered, as well as if any patient or third-party reimbursements are received. The bill also requires that if the examiner gives a recommendation in the report as to the least restrictive placement or commitment alternative for the defendant due to the defendant's condition, the examiner must consider the housing needs and availability of mental health treatment in the community. This provision could result in an increase in utilization of community services.

### **Written report by an examiner**

The bill requires a written report filed by the examiner who assesses a defendant's mental state to be filed with the court under seal and requires the court to allow for inspection of the report by certain parties.<sup>4</sup> The report is not open to public inspection, but the bill permits a

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<sup>1</sup> This figure was provided by OhioMHAS on December 13, 2018. Current figures are likely similar.

<sup>2</sup> Provided to LBO from OhioMHAS.

<sup>3</sup> This information was provided by ODODD in 2018. LBO has also asked ODODD for an updated number, but ODODD is still working on this request. LBO assumes that this information has not changed drastically since 2018.

<sup>4</sup> Parties include the defendant, the defendant's guardian, and any mental health professional involved in the treatment of the defendant, probate courts, and boards of alcohol, drug addiction, and mental health services.

person to file a motion seeking disclosure for good cause and requires the court to notify the defendant of the pending motion. If the defendant objects to the disclosure, the court is required to hold a hearing. Municipal, county, and common pleas courts could see additional expenses due to these additional hearing and notification requirements, the magnitude of which is dependent on the number of motions filed.

## **Incompetence to stand trial**

The bill allows a criminal trial court that finds a defendant charged with a misdemeanor offense, other than a misdemeanor offense of violence, incompetent to stand trial to do one of the following:

- Dismiss the charges pending against the defendant without prejudice and discharge the defendant from custody; or
- Order the defendant to undergo outpatient competency restoration treatment at a facility operated or certified by OhioMHAS as being qualified to treat mental illness, at a public or community mental health facility, or in the care of a psychiatrist or other mental health professional.

If a defendant who has been released on bail or recognizance refuses to comply with this court-ordered outpatient treatment, the court is permitted to dismiss the charges pending against the defendant or amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by OhioMHAS for treatment.

Furthermore, the bill prohibits a court from proceeding against a defendant under the above process if the defendant is charged with a misdemeanor offense of violence and found incompetent to stand trial unless the prosecutor recommends that the court follow those diversion procedures. If the prosecutor does not recommend those procedures and the court is unable to determine whether there is a substantial probability that the defendant will become competent to stand trial within the period permitted under existing law for treatment, the court may order continuing evaluation of the defendant for a period not to exceed that maximum period.

Additionally, the bill requires the court, when determining the place of commitment for a defendant found incompetent to stand trial, to consider the availability of housing and supportive services, including outpatient mental health services.

These provisions could result in an increase in costs for ADAMHS boards, local courts, and possibly other government programs that pay for treatment (e.g., Medicaid for eligible participants and medically necessary services). The amount of the increase is uncertain, but will depend on a number of factors including the number of people receiving these services, the scope of services rendered to each individual, as well as the amount of any potential patient or third-party payer reimbursements.

## **Involuntary status**

The bill authorizes a hospital's chief clinical officer to file an affidavit for involuntary treatment of a mental health patient in voluntary status if the patient refuses to accept the written treatment plan required under existing law. The bill requires a hospital's chief clinical officer to immediately notify the appropriate trial court or prosecutor if the officer decides to discharge a mental health patient in voluntary status who had, within the past 12 months, been a defendant found incompetent to stand trial for a misdemeanor charge and subject to involuntary mental health treatment or institutionalization by court order because of intellectual disability.

The bill authorizes the trial court or prosecutor, not later than three court days after being notified of the intent to discharge, to file an affidavit for involuntary mental health treatment with the probate court of the county where the patient is hospitalized or the county where the patient resides. The bill requires that if such an affidavit is filed, the patient's discharge must be postponed until a hearing on the involuntary treatment is held.

Probate courts could see additional expenses due to the additional hearing requirements. While the total impact of these provisions are uncertain, it is possible that government-owned hospitals, ADAMHS boards, and other state programs that pay for treatment, such as Medicaid, could realize an increase in costs if treatment stays are extended or additional treatment is provided due to the bill.

## **Substance abuse civil commitment – emergency hospitalization**

The bill modifies the mechanism by which a probate court may order involuntary treatment for a person suffering from alcohol and other drug abuse by eliminating a provision of current law that allows for the court to order that the respondent be hospitalized for a period not to exceed 72 hours under certain circumstances. Since the courts can no longer order a person to be hospitalized while they await treatment through a community addiction services provider, government-owned hospitals could experience a decrease in costs relating to these emergency hospitalizations. However, under continuing law, unchanged by the bill, the court may order a person under the same circumstances to treatment provided through a community addiction services provider or by an individual licensed or certified under the Revised Code to provide substance abuse treatment. Such treatment is required to last for a minimum of three months, but no more than six months and the court may order that a person submit to periodic examinations by a qualified mental health professional to determine if the treatment remains necessary.

## **Psychology Interjurisdictional Compact**

The Psychology Interjurisdictional Compact (PSYPACT) is a multi-jurisdictional psychology contract created in 2015 to regulate the practice of telepsychology and temporary in-person, face-to-face psychology across state boundaries. The bill enters Ohio into PSYPACT, permitting eligible psychologists to practice telepsychology and temporary in-person, face-to-face psychology with patients in other compact states. All states participating in PSYPACT help establish the Psychology Interjurisdictional Compact Commission, a collective governing agency overseeing the implementation of PSYPACT. The bill establishes the Commission's powers and authority and specifies that the Commission is allowed to accept any and all appropriate revenue



sources, donations, grants, equipment, etc. and may also levy on and collect an annual assessment from each compact state or impose fees on other parties. The bill establishes the requirements a psychologist must meet to practice under PSYPACT. The Commission is responsible for developing and maintaining a Coordinated Licensure Information System to record licensure and disciplinary action for practicing PSYPACT psychologists. The bill outlines what data compact states are required to submit.

The State Board of Psychology will be required to pay an annual assessment to the Commission. The amount that the Board must pay is not explicitly stated in the bill; however, a rule developed by the Commission that went into effect on October 9, 2019, states that a compact state will be charged \$10 per PSYPACT participating psychologist licensed in their home state up to a maximum of \$6,000 annually. In addition to these annual assessments, there may be additional administrative costs to investigate complaints. There will also be other costs to the Board associated with submitting uniform data to the Commission and notifying other compact states of certain actions taken about any licensees. The total costs will depend on the number of Ohio psychologists that opt to practice under PSYPACT, the number of other compact state psychologists that practice in Ohio, and the number of complaints that the Board is required to investigate.

There could be other impacts associated with Ohio entering PSYPACT. For instance, additional PSYPACT psychologists located in other compact states could provide services to Ohio residents. If this occurs, there could be additional reimbursements from state and local programs that reimburse for these services. In addition, if an Ohio resident utilizes an out-of-network provider located in another compact state there could be some additional costs to state and local programs or health plans. However, if the provision of these services led to any avoidances in hospital admissions or any other more expensive treatments, there could be a reduction in costs.



# OHIO LEGISLATIVE SERVICE COMMISSION

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**S.B. 18**  
**134<sup>th</sup> General Assembly**

## Fiscal Note & Local Impact Statement

[Click here for S.B. 18's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Sens. Roegner and Schaffer

**Local Impact Statement Procedure Required:** Yes

Russ Keller, Senior Economist, and other LBO staff

### Highlights

- The bill incorporates into Ohio income tax law changes made to the federal Internal Revenue Code (IRC) since March 27, 2020. The two most significant changes occurred in December 2020 and March 2021, with provisions predominantly affecting tax returns to be filed for tax year (TY) 2020 and years thereafter.
- Incorporation of IRC changes potentially reduces personal income tax (PIT) revenue up to \$200 million during the FY 2022-FY 2023 biennium. The revenue loss would be shared by the GRF (96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). Nevertheless, some PIT losses could instead occur earlier in FY 2021, if taxpayers do not rely on amended tax returns to claim the benefits of tax conformity.
- The bill excludes from the commercial activity tax (CAT) those dividends received by a taxpayer in 2020 and 2021 from the State Insurance Fund of the Ohio Bureau of Workers' Compensation. The revenue loss from this provision will be several millions of dollars in FY 2022, and possibly in FY 2023. CAT revenue is distributed to the GRF (85%), the School District Tangible Property Tax Replacement Fund (13%), and the Local Government Tangible Property Tax Replacement Fund (2%).
- The bill reduces the withholding tax rate for certain pass-through entities to 3%, starting with tax years that begin after January 1, 2023. Taxpayer liabilities would be unchanged. However, the rate reductions are estimated to give rise to a one-time revenue loss of \$31.6 million in FY 2023, due to the timing of payments during the fiscal year.

- The bill declares itself an emergency measure that will go into immediate effect.

## **Detailed Analysis**

The bill incorporates changes to the federal Internal Revenue Code (IRC) made by two acts of U.S. Congress, the “Consolidated Appropriations Act, 2021” (CAA 2021), and the “American Rescue Plan Act of 2021” (ARPA 2021) into Ohio income tax law.<sup>1</sup>

In general, Ohio tax law incorporates by reference parts of the IRC and other federal laws. Periodic amendments to federal law do not become part of Ohio law unless they are incorporated by an act of the General Assembly. Several provisions in CAA 2021 and ARPA 2021 modified the definition of federal adjusted gross income (FAGI) and these actions materially affect the tax base for some Ohio taxpayers. FAGI is the starting point for determining Ohio adjusted gross income (FAGI with certain additions and deductions), Ohio taxable income, and other elements of the Ohio tax base. In the sections that follow, select provisions within the recent federal legislation are addressed, and their state revenue impact is discussed.

In addition to incorporating such changes, the bill provides two exclusions from the commercial activity tax (CAT), and reduces the withholding rate for certain pass-through entities (PTEs). Sections of the fiscal note outlining the revenue effects of these provisions follow those immediately below, which address conforming Ohio’s income tax base to federal law.

### **New tax provisions unique to CAA 2021 and ARPA 2021**

The following income tax provisions are new tax topics that were not previously enacted by previous iterations of federal legislation. The implication for conformity through S.B. 18 is that these provisions would alter state tax collections from their historical patterns observed in prior years.

#### **Exclusion of the first \$10,200 of 2020 unemployment compensation**

ARPA 2021 permits taxpayers to exclude up to \$10,200 per person when filing their tax year (TY) 2020 federal return. The provision applies to those taxpayers whose FAGI is less than \$150,000, so it is a broad-based tax benefit likely encompassing about 94% of those receiving unemployment compensation.

The Internal Revenue Service (IRS) instructs taxpayers to use “the amount reported in box 1 of your Form 1099-G.” The Ohio Department of Job and Family Services (ODJFS) issues this form to those receiving the assorted types of unemployment compensation, inclusive of (1) unemployment insurance, (2) extended unemployment benefits, (3) pandemic emergency unemployment compensation, (4) pandemic unemployment assistance, (5) federal pandemic unemployment compensation, and (6) lost wages supplemental payment assistance. ODJFS reported to LBO that payments under these various programs totaled \$16.34 billion during 2020.

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<sup>1</sup> H.B. 197 of the 133<sup>rd</sup> General Assembly already incorporated changes made by HR 748 of the 116<sup>th</sup> U.S. Congress, the “Coronavirus Aid, Relief, and Economic Security (CARES) Act” because that legislation’s effective date coincided with the same date for H.B. 197.

Few data sources provide the details necessary to evaluate this federal provision. The Joint Committee on Taxation (JCT) is a nonpartisan committee which prepares revenue estimates of all revenue legislation considered by the U.S. Congress. Although JCT scores the nationwide impact, the federal impact may serve as the basis for a rough state-level impact, if suitably adjusted. Under this methodology, ARPA 2021 would exempt between \$3.52 billion and \$6.12 billion from Ohioans' FAGI, which reduces personal income tax (PIT) receipts between \$81 million and \$141 million. Given the late hour at which this federal policy was enacted, the resulting PIT revenue loss would likely occur through amended tax returns filed during FY 2022. The GRF share of this loss would be 96.68% during that year.

LBO requested additional data from ODJFS on March 11 about the number of recipients and the magnitude of unemployment compensation specified on Form 1099-G(s) issued by the agency. As of this date, we are still awaiting a response. The LBO estimate in this fiscal note should be regarded as preliminary until ODJFS provides LBO with additional information about the \$16.34 billion it may have documented on the Form 1099-G(s) issued to Ohio recipients.

### **Temporary special rule for determination of earned income**

If TY 2020 earned income of a taxpayer is less than the taxpayer's earned income for the preceding taxable year, CAA 2021 permits the individual to elect to use TY 2019 earned income when determining their TY 2020 federal earned income tax credit (EITC). Similarly, a provision within ARPA 2021 enables taxpayers to use their TY 2019 earned income to determine their TY 2021 EITC, if their TY 2021 earned income is below the TY 2019 level.

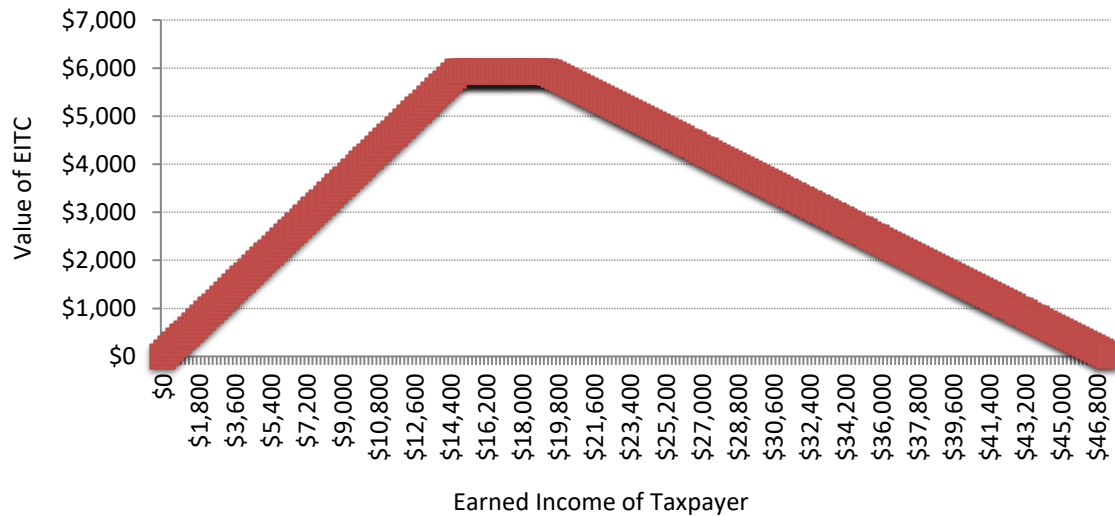
Incorporating these federal provisions affects the Ohio earned income credit available under the personal income tax (PIT). The state credit's value equals 30% of the federal EITC. In a typical year, the Ohio earned income credit reduces PIT receipts by about \$70 million. About 900,000 Ohio taxpayers claimed the federal EITC in TY 2018.

Incorporating this federal change will prove advantageous for a portion of taxpayers claiming the EITC. The chart below for a single individual with two children<sup>2</sup> illustrates how the federal EITC escalates in value as a person earns more money, then plateaus at a maximum amount, before subsequently phasing out the benefit for higher income levels. A policy permitting taxpayers to substitute their higher TY 2019 income largely benefits EITC recipients that are "left of the plateau," or up to \$14,800 in income, as seen in this chart. Because this federal provision does not uniformly benefit every taxpayer claiming the EITC, its fiscal effect is difficult to estimate with certainty. Nevertheless, it may be reasonable to anticipate that incorporating this federal provision could reduce PIT receipts by several million dollars in FY 2021-FY 2022 when TY 2020-TY 2021 tax returns are filed. The actual revenue loss depends on the individual circumstances of applicable taxpayers.

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<sup>2</sup> Please note that this "plateau" occurs at different income levels for other categories of EITC recipients, which vary according to household circumstances (i.e., marital status, number of qualifying children).

**Value of TY 2020 Federal EITC at Various Levels of Earned Income  
for a Single Individual with Two Children**



### **Temporary allowance of full deduction for business meals**

Generally, taxpayers can deduct only 50% of their business meal expenses, including meals incurred while away from home on business. The deduction lowers FAGI, which has implications for the Ohio tax base. CAA 2021 increased the deduction to 100% for a two-year period commencing January 1, 2021. The change is expected to incentivize more business meals at restaurants and other similar establishments, but it is difficult to forecast demand given the ongoing COVID-19 pandemic.

The business meal deduction can be utilized against sole proprietorship income, or claimed against partnership and S-corporation income. Nationwide IRS statistics for TY 2018 show that fewer than 3% of meal deductions were claimed by individuals. Continuing Ohio law enables taxpayers to deduct the first \$250,000 (or \$125,000 for married couples filing separate tax returns) of business income included in their FAGI. So, more than 90% of Ohio taxpayers with business income do not pay income tax on those amounts. Therefore, those Ohioans are unaffected by the provision related to business meal expenses. Conforming to this provision affects only individuals with unreimbursed meal expenditures and those with taxable business income. If 30,000 Ohio taxpayers claimed an additional \$1,600 in meal deductions per year, the resulting income, \$48 million, would be exempt from taxation due to S.B. 18. If that income is otherwise taxed at 3%, the conformity bill would reduce PIT receipts by \$1.4 million. The assumed increase in meal deductions could be considerably less than \$1,600 per return if taxpayers' behavior in 2021-2022 is different than meal expensing trends reported on their TY 2018 filings.

### **Student loan forgiveness**

ARPA 2021 enacted special rules for student loans discharged over a five-year period from TY 2021-TY 2025. The legislation excludes from a taxpayer's FAGI "any amount" of discharged student loans, regardless of whether they were made by public or private lenders. In general, a

taxpayer must report as income the amount of student loan debt that is canceled, forgiven, or discharged. JCT regarded this provision as having a small revenue impact, but that analysis reflects current circumstances. If a future federal action were to eliminate more student debt obligations, this income exclusion would have a larger, and perhaps much larger, impact.

### **Assorted changes to federal credits affecting the state income tax**

ARPA 2021 made multiple changes to the EITC, which affects the eponymous state credit (as explained above). The recent legislation made temporary changes affecting the EITC for TY 2020 and TY 2021, but most of the revisions apply to taxpayers with no qualifying children. The EITC pays progressively higher amounts to low-income individuals, depending on the number of children in their households. Statistics show that about one-fourth of EITC recipients have no qualifying children, but their revenue impact is proportionally smaller because their credits are substantially less than recipients with children.

Similarly, ARPA 2021 augmented the federal child and dependent care credit, which affects the associated state income tax credit available to those with incomes below \$40,000. The value of the PIT credit is based upon amounts reported on a taxpayer's federal return. The efficacy of this state tax benefit has waned in recent years because the PIT no longer applies to those with incomes below \$22,150. The Tax Expenditure Report, as published by the Ohio Department of Taxation, estimates that this credit reduces PIT receipts by less than \$2 million per year. Their conclusion suggests that the nonrefundable credit exceeds the state tax liability for many of the 45,000 taxpayers claiming this credit.

### **CARES Act provisions extended or clarified by CAA and ARPA**

Although H.B. 197 incorporated the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the state revenue effect of those provisions were not addressed in the enacted fiscal note because the CARES Act coincidentally became public law on the same date H.B. 197 was effective. Some of the provisions enacted in the CARES Act for TY 2020 were extended or otherwise modified by the latest federal legislation. The original fiscal effect of CARES Act provisions has yet to be observed because tax returns for TY 2020 will be filed during the latter months of FY 2021. Absent data on taxpayer behavior, it is difficult to forecast the fiscal effect of extending these new provisions for additional years. Incorporating these changes will likely reduce state tax receipts. The following items are those believed by LBO to be the most consequential.

#### **Certain charitable contributions deductible by non-itemizers**

If a taxpayer does not itemize deductions on Schedule A (Form 1040), the taxpayer may take a charitable deduction for cash contributions made in 2021. This deduction first applied to TY 2020, but CAA 2021 extended this deduction to TY 2021. The parameters are somewhat expanded for TY 2021, as the \$300 limit on cash contributions to charities is increased in TY 2021 to \$600 for those filing a joint return. The maximum deductible amount for all other filing circumstances remains at \$300.

IRS statistics show that approximately 92% of Ohio taxpayers claimed the standard deduction for TY 2018. About one-third of taxpayers also filed joint returns in that year. If 10% of

those claiming the standard deduction (520,000 tax returns) deduct the maximum amount (\$400 per return, weighted average) for charitable contributions on their TY 2021 returns, they would exclude \$208 million from FAGI. By incorporating this federal provision, S.B. 18 could reduce FY 2022 receipts by \$6 million, assuming a 3% state income tax rate would otherwise apply to this income.

### **Extension of exclusion for certain employer payments of student loans**

If a taxpayer receives educational assistance benefits from his or her employer under an educational assistance program, the taxpayer can exclude up to \$5,250 of those benefits each year. Tax-free educational assistance benefits include payments made after March 27, 2020, and before January 1, 2026, whether paid to the employee or to a lender, of principal or interest on any qualified education loan incurred by the employee for education of the employee. The employer does not classify those benefits alongside wages, tips, and other compensation shown on the employee's Form W-2, box 1. Consequently, the employee does not have to include the benefits on his or her income tax return.

### **Clarification of the tax treatment of Paycheck Protection Program loan forgiveness**

The Paycheck Protection Program (PPP) provides "covered loans" to help businesses keep their workforce employed during the COVID-19 pandemic. Borrowers may be eligible for PPP loan forgiveness if they maintain certain levels of employee compensation in the weeks following loan disbursement. The CARES Act declared that PPP recipients can exclude covered loan forgiveness from their gross income, which effectively renders the loan a tax-free grant. The IRS subsequently determined that existing IRC "disallows any otherwise allowable deduction" against the tax-exempt income resulting from PPP loan forgiveness.<sup>3</sup> The IRS regards a deduction against tax-exempt income as "a double tax benefit." Deductions should not be taken against PPP loans because the taxpayer has a reasonable expectation for reimbursement via loan forgiveness. CAA 2021 specified that, "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by" PPP loan forgiveness.<sup>4</sup>

According to U.S. Small Business Administration (SBA) reporting, the PPP enabled 149,144 loans to Ohio-based applicants for a total of \$18.53 billion in calendar year (CY) 2020.<sup>5</sup> However, PPP loan data is not indicative of loan forgiveness or program compliance. As of March 18, nationwide statistics show that 99.7% of 2020 PPP loan amounts reviewed by the SBA were forgiven. However, the status of nearly two-thirds of the 2020 PPP loan amounts is still uncertain because the SBA has yet to receive or complete its review of borrowers' loan forgiveness applications. The conformity provision in S.B. 18 only applies to the deductibility of expenses against forgiven loans. LBO staff assumes most loans will be forgiven.

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<sup>3</sup> <https://www.irs.gov/pub/irs-drop/n-20-32.pdf>.

<sup>4</sup> Refer to Sections 276 and 278 of "Subtitle B—COVID-related Tax Relief Act of 2020."

<sup>5</sup> <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program/ppp-data>.



Because the PIT excludes the first \$250,000 of business income from tax, this S.B. 18 provision is especially applicable to large PPP loans. Table 1 summarizes SBA loan information for Ohio recipients that borrowed at least \$150,000. The bill's conformity to FAGI is most relevant to individuals' business income (Schedule C and Schedule E). Multiple business types specified in the table are unlikely to yield that sort of income to individuals. Nevertheless, under plausible assumptions,<sup>6</sup> conforming to this CAA 2021 provision regarding deductibility could reduce PIT receipts by tens of millions of dollars for the applicable tax years.

Table 1. CY 2020 Paycheck Protection Program Loans of \$150,000 and Above for Ohio						
Business Type	\$150,000- \$350,000	\$350,000- \$1 million	\$1 million- \$2 million	\$2 million- \$5 million	\$5 million- \$10 million	Grand Total
Corporation	4,966	2,868	809	343	72	9,058
Limited Liability Company (LLC)	3,657	1,728	387	200	49	6,021
Subchapter S Corporation	2,882	1,708	537	268	64	5,459
Nonprofit Organization	670	518	200	121	10	1,519
Partnership	156	83	24	6	4	273
Unspecified	79	73	26	7	2	187
Sole Proprietorship	115	37	9	4	2	167
Limited Liability Partnership	95	47	13	5	4	164
All Other Business Types	58	65	23	13	3	162
<b>Total</b>	<b>12,678</b>	<b>7,127</b>	<b>2,028</b>	<b>967</b>	<b>210</b>	<b>23,010</b>

Source: LBO tabulation of SBA data released in August 2020

## Tax treatment of federal grants

The bill incorporates the federal income exclusion of (1) restaurant revitalization grants, and (2) amounts received from the Small Business Administration in the form of a targeted Economic Injury Disaster Loan (EIDL) advance. In practice, both of those federal funding sources would be treated in the same fashion as forgiven PPP loans, so the recipients can also claim

<sup>6</sup> Assumptions regarding the average numbers of owners of different types of business, as well as the percentage of loans that were forgiven.

deductions for this tax-free income. However, these grant programs are more limited in scope than the PPP loans, so the funds will be disbursed to distinct recipients.

Congress appropriated \$5 billion in restaurant revitalization grants for small businesses with fewer than \$500,000 in gross receipts during 2019. The remaining \$23.6 billion available to restaurants under the ARPA 2021 does not have a similar means test on gross receipts. However, grants are limited to a business's losses during the pandemic, and further subject to a cap of \$10 million (or \$5 million per physical location of the eligible entity). Separately, another \$15 billion in EIDL advances was appropriated by ARPA 2021 for distressed small businesses, nonprofits, and venues. Because the latest appropriations for these federal funds were enacted on March 11, LBO does not have an estimate of the fiscal effect on the PIT of these provisions that would be related to Ohio-based businesses receiving these prospective awards.

## **Provisions extended by CAA 2021 that precede the CARES Act**

Some income tax provisions affected by CAA 2021 existed in previous tax years. The implication of their earlier presence means Ohio taxpayers already utilized the FAGI definition in previous state tax filings. Prior year PIT receipts already reflect these taxpayer behaviors. Incorporating an extension of expired provisions should not materially alter the regular pattern of state tax collections. However, two items can be regarded as consequential because Congress recently modified them.

### **Modification and extension of exclusion from gross income of discharge of qualified principal residence indebtedness**

If a borrower's debt is forgiven or discharged for less than the full amount owed, the difference may be canceled. The amount of the canceled debt may be taxable and reportable on a borrower's tax return for the year the cancellation occurs, depending on statements provided by the lender. However, federal law generally allows taxpayers to exclude income from the discharge of debt on their principal residence. The exception applied to debt forgiven in calendar years 2007 through 2020.

CAA 2021 extended this exclusion for five years, which applies to TY 2021 through TY 2025. By conforming to this change, S.B. 18 will reduce PIT receipts in FY 2022-FY 2026. However, that same federal legislation reduced the amount of income eligible for exclusion. In prior years, up to \$2 million of forgiven debt was eligible (\$1 million if married filing separately). Beginning with TY 2021, the limit was lowered to \$750,000 (\$350,000 if married filing separately). Therefore, Ohio taxpayers could ultimately report more taxable income on behalf of their canceled mortgage debt in TY 2021 than they did in prior years.

### **Depreciation of certain residential rental property over 30-year period**

Continuing federal law provides business owners with a general depreciation system (GDS) method, but enables them to elect an alternative depreciation system (ADS) option for most property. If a taxpayer chooses to use ADS for their residential rental property, the election must be made in the first year the property is placed in service. Once this election is made, the taxpayer can never revoke it.

Under the GDS option, residential rental property, inclusive of buildings, structures, and structural components (e.g., furnaces, water pipes, venting), depreciates over a 27.5-year recovery period. The Tax Cuts and Jobs Act of 2017 (TCJA) changed the ADS recovery period for residential rental property from 40 years to 30 years. These TCJA changes affect property placed in service after December 31, 2017.

CAA 2021 amended the ADS method for certain residential rental property. According to IRS instructions,<sup>7</sup> “the ADS recovery period for residential rental property placed in service before January 1, 2018, is 30 years if the property is held by an electing real property trade or business (as defined in section 163(j)(7)(B)) and sections 168(g)(1)(A), (B), (C), (D), or (E) did not apply to the property before January 1, 2018.”

Since this federal law change is retroactive to TY 2018, it could yield a larger fiscal effect on FY 2021 receipts as taxpayers utilize this ADS option for TY 2018-TY 2020. IRS statistics from TY 2018 show that only 6,657 taxpayers nationwide claimed a 40-year recovery period for property placed into service during 2018. Presumably, these taxpayers could benefit from the retroactive nature of the recent federal change, but the provision is likely to have limited effect on Ohio tax receipts. As previously mentioned, the PIT provides a \$250,000 business income deduction, which substantially diminishes the fiscal impact of conforming to FAGI changes that reduce business income.

## **Commercial activity tax exclusions**

The CAT applies to most businesses regardless of the organization type under which that business operates.<sup>8</sup> In general, persons with annual taxable gross receipts of \$150,000 or less are not subject to the CAT, and filers with more than \$150,000 but less than or equal to \$1 million taxable gross receipts in the previous calendar year pay the \$150 annual minimum tax and file an annual return. Taxpayers with taxable gross receipts between \$1 million and \$2 million pay \$800 plus 0.26% of the taxable gross receipts in excess of \$1 million, those with taxable gross receipts between \$2 million and \$4 million pay \$2,100 plus 0.26% of the taxable gross receipts in excess of \$1 million, and those with taxable gross receipts in excess of \$4 million pay \$2,600 plus 0.26% of the taxable gross receipts in excess of \$1 million.

### **Gross receipts exclusion for PPP loan forgiveness**

The CARES Act excluded PPP loan forgiveness from a taxpayer’s gross income, and H.B. 481 of the 133<sup>rd</sup> General Assembly excluded those same receipts from the CAT. CAA 2021 authorized an additional \$284.45 billion in PPP loans. Borrowers can apply for a PPP Loan until May 31, 2021, and the law allows certain eligible borrowers that previously received a PPP loan to apply for a “Second Draw” PPP loan with the same general loan terms as their “First Draw” PPP loan.

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<sup>7</sup> <https://www.irs.gov/publications/p527>.

<sup>8</sup> For example, sole proprietorships, partnerships, LLCs, S corporations, corporations, trusts, and all other type of associations are subject to the CAT, if their taxable receipts exceed the minimum threshold. Certain businesses that have their own tax regimes, such as financial institutions or insurance companies, are not subject to the CAT because they pay another type of business tax.

Since this latest round of PPP loans is less than \$525.01 billion lent to businesses nationwide during CY 2020, the CAT exclusion authorized by S.B. 18 is likely smaller in scope than the H.B. 481 provision. LBO staff does not have data on the Ohio businesses availing themselves of this most recent PPP authorization. Tens of thousands of Ohio businesses could benefit from the CAT exclusion, but their actual tax savings will vary depending on their taxable receipts in CY 2021 and the balances of their forgiven loans.

### **Gross receipts exclusion for BWC dividends**

The bill authorizes an exclusion from the CAT for the amount of excess surplus (i.e., dividends) of the State Insurance Fund received by a taxpayer from the Ohio Bureau of Workers' Compensation (BWC) pursuant to rules adopted under section 4123.321 of the Revised Code on or after January 1, 2020, and before January 1, 2022. In general, BWC specifies a procedure for returning excess workers' compensation premiums to employers, if the BWC Board of Directors determines that the surplus of earned premiums over losses is larger than needed to maintain solvency of the State Insurance Fund. The exclusion is for dividends paid to employers in calendar years 2020 and 2021.

Table 2 provides dividends paid to private and public employers in the last three calendar years. In 2020, BWC paid a total of \$7.88 billion in dividends from the fund to both private and public employers that maintained workers' compensation coverage under the fund. Public employers are not liable for the CAT, so the exclusion from taxable gross receipts in the bill would affect the \$6.82 billion in excess surplus returned to private taxpayers.

Table 2. Dividends Paid to Employers from BWC State Insurance Fund		
Calendar Year	Public Employers (\$ in millions)	Private Employers (\$ in millions)
2018	\$157	\$1,105
2019	\$172	\$1,252
2020	\$1,055	\$6,823

Source: BWC communication with LBO staff

If all dividends paid to private employers were taxable at the 0.26% rate, the exclusion would have amounted to a revenue loss of about \$17.7 million in FY 2022. However, due to the structure of the CAT, the revenue loss from this provision in the bill will likely be less, though LBO cannot determine the reduction in CAT receipts due to lack of data. A number of taxpayers receiving the excess surplus may remain exempt from the tax because their taxable gross receipts would still be below the \$150,000 threshold. Another set of taxpayers would also have their CAT liability unchanged as their taxable gross receipts, including the dividend, would remain below \$1 million. As a result, an unknown share of the \$6.82 billion in excess surplus returned to private taxpayers would not give rise to any additional CAT liability. To the extent a CAT taxpayer paid additional tax on the excess surplus received, such a taxpayer would be entitled to a refund.

The bill is likely to reduce CAT revenue by several millions of dollars in FY 2022. Though the amount of the revenue loss is undetermined, LBO cannot rule out a revenue reduction exceeding \$10 million, based on CY 2020 dividends, possibly starting in the last quarter of the current fiscal year (see emergency provision) and with the majority of the loss realized in FY 2022. However, the total fiscal loss in FY 2022 will be dependent on the level of excess surplus returned to taxpayers in CY 2021.

Current law earmarks revenues from the CAT for the GRF (85%) and for reimbursing school districts and other local governments for the reductions and phase-out of local taxes on most tangible personal property. Other revenues from the CAT are split between the School District Tangible Property Tax Replacement Fund (13%) and the Local Government Tangible Property Tax Replacement Fund (2%) for reimbursement purposes. Revenue reductions to the GRF and local funds would be proportional to allocations to those funds in existing law.

Any decrease in total GRF tax receipts would also decrease the amount distributed to the LGF and the PLF. Under existing law, 1.66% of total GRF tax receipts is allocated to each fund beginning in FY 2022. Any reduction to the LGF and PLF would decrease distributions from the funds to counties, municipalities, townships, public libraries, and other political subdivisions in the state.

## **Personal income tax**

### **Pass-through entity withholding**

The bill reduces withholding tax rates to 3% on certain PTEs. PTEs include partnerships, S corporations, and limited liability companies. PTEs “pass through” the liability to pay tax on their income to their investors, thereby avoiding a second layer of taxes at the business entity level. Although income taxes are not owed by the PTEs themselves but are due instead from the investors in the PTEs, payments referred to as withholding taxes are made by some PTEs for which the investors in those entities can claim refunds or credits against taxes owed. This withholding tax helps reduce tax avoidance.

For certain out-of-state investors in PTEs that are not individuals or are various financial institutions and some others, the withholding tax rate falls from 8.5% to 3%.<sup>9</sup> For out-of-state investors in PTEs who are individuals and for trusts with beneficiaries who are out-of-state individuals, the withholding tax rate falls from 5% to 3%. The 3% rate equals the rate on taxable business income.

No state personal income taxpayer’s tax liability is changed by the bill. Taxpayers are eligible for refunds of withholding tax paid in excess of tax due. However, timing differences between when the tax is withheld and when the refunds are paid will result in a one-time tax

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<sup>9</sup> This part of the bill, amending R.C. 5733.41, applies with certain exceptions to non-Ohio domiciled entities including other PTEs; financial institutions; financial holding companies; bank holding companies; savings and loan holding companies; persons directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies; persons that solely facilitate or service securitizations by these entities; certain affiliates of insurance companies; and estates and trusts subject to the personal income tax.

revenue loss from the reduction in withholding tax rates that LBO estimates at \$31.6 million in FY 2023. This estimate is based on data provided by the Department of Taxation. The loss occurs because refunds (or final settlements) are paid in arrears, for the prior tax year, so adjust more slowly than cash flows from changes in the withholding tax. This remains the case even if the taxpayer owes no tax on the income for which withholding tax was paid. For example, a taxpayer eligible to deduct business income from the PTE that totals less than the maximum allowed deduction of \$125,000 for a married taxpayer filing separately and \$250,000 for all other taxpayers would owe no tax on that income.

### **Unemployment compensation withholding**

The bill allows individuals, at the time they apply for unemployment benefits, to elect to have state income tax withheld from their benefits. Current law allows individuals to request that ODJFS withhold federal income tax on their benefits, but does not specifically allow such a request for state income tax. The bill also allows individuals already receiving unemployment benefits who elected to have federal income tax withheld to elect to have state income tax withheld. The provision does not have a net fiscal effect, but income tax receipts may be received sooner than otherwise collected under current law.

### **Waiver of income tax penalties related to unemployment benefits**

The bill authorizes the Tax Commissioner to temporarily waive any interest or penalties for a taxpayer that does not make a full, timely payment of state and school district income taxes due on unemployment benefits received in 2020, if the taxpayer timely files an annual return for that year. However, the provision reimposes on that underpayment any interest or penalties waived by the Commissioner if the taxpayer does not pay the tax due by June 30, 2023, unless the Commissioner exercises the Commissioner's existing authority to permanently abate such penalties. The bill allows a taxpayer that has already paid any such interest or penalties to request a refund of those amounts, except for any amounts reimposed on that underpayment.

The provision will not directly result in revenue loss, as it authorizes rather than requires abatement of penalties on underpayments. If the Commissioner does abate most or all such interest and penalties, the amount of the revenue loss could range up to the low millions of dollars.

### **Emergency provision**

The bill declares itself an emergency measure that will go into immediate effect.



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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 57  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for S.B. 57's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsors:** Sens. Hackett and Antonio

**Local Impact Statement Procedure Required:** Yes

Philip A. Cummins, Senior Economist

### Highlights

- **COVID-19 property valuation reductions.** Authorizing special reductions in property value due to circumstances related to COVID-19 may result in sizable revenue losses to local governments, possibly ranging to tens or hundreds of millions of dollars statewide.
- **Property tax exemption of qualifying housing.** Tax exempting housing for individuals with mental illness or substance use disorder would codify historical practice, according to witness testimony, but is contrary to a recent Board of Tax Appeals decision that a residential property with these characteristics is taxable under current law. The exemption would reduce revenue to political subdivisions by an uncertain amount that might range up to \$15 million to \$32 million statewide.
- **Tax increment financing obligations a covenant running with the land.** Specifying in law that minimum service payment obligations are a covenant running with the land, enforceable against subsequent property owners, may avoid costly delays in securing financing for development projects, and may allow projects sought by local governments to be undertaken that might not be financed in the absence of the provision.
- **Property tax valuation complaints by tenants.** By authorizing qualifying tenants of commercial or industrial property to file property tax valuations complaints, the bill may result in lower tax valuations and lower revenues to local governments.



## Detailed Analysis

The bill makes several changes to property tax law. The fiscal effects are therefore mostly local. The only fiscal effect on the state is a likely increase in caseload, and possibly a backlog of cases, at the state Board of Tax Appeals (BTA) from two of the provisions, as explained below. BTA expenditures are funded by the GRF.

### Special valuation complaints related to COVID-19

The bill authorizes a county board of revision, pursuant to a special valuation complaint filed for tax year 2020, to value a property for tax purposes as of October 1, 2020, instead of the January 1, 2020 tax lien date, if the reduced value is due to circumstances related to the COVID-19 pandemic or state COVID-19 orders. An eligible party must file such complaint within 30 days after the provision's effective date. The adjusted value will apply to subsequent tax years.

The bill waives the rule barring multiple valuation complaints from being filed in the same triennial valuation period for such tax year 2020 valuation complaints and valuation complaints filed for tax year 2021 or tax year 2022 that allege a reduction in a property's value due to circumstances related to the COVID-19 pandemic or state COVID-19 orders.<sup>1</sup>

Some types of commercial property appear more likely to be the subject of the change in the valuation complaint process that would be made by this provision of the bill. Retail businesses involving direct in-person interaction between customers and staff, such as bars and restaurants, have been closed or had their hours of operation reduced during the pandemic. Hotels, tourism, travel, and related businesses have also suffered reduced demand for services. Many office workers have worked from home during the pandemic, leaving office buildings with fewer occupants. In contrast, other types of businesses appear to have done relatively well, such as grocery stores and warehouses. Other classes of real property, including residential and agricultural, appear less likely to have property complaints filed for them as a result of this provision of the bill.

Commercial real property in the state had a taxable value in 2020 of about \$46.8 billion, equivalent to market value of \$134 billion at Ohio's 35% assessment rate for real property. The statewide average effective tax rate on Class II real property, which includes commercial real property, was about 75 mills or 7.5% in 2019. The implied tax on commercial real property was about \$3.5 billion. These figures imply that for each 1% decline in the statewide average value of commercial real property that results from the provisions of the bill, tax revenue to school districts and other units of local government would decline about \$35 million. Although LBO does not have a basis for estimating the magnitude of the decline in property values that might result from this provision of the bill, the tax revenue loss to local governments clearly could be sizable, in the tens or hundreds of millions of dollars statewide.

The bill could be expected to increase, likely greatly increase, the number of valuations appealed to boards of revision (BORs). This anticipated bulge of cases could in turn increase the number of cases appealed to BTA. Processing this many appeals at the local and state levels

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<sup>1</sup> Under current law, an eligible party may generally file a valuation complaint with respect to a particular parcel only once in each triennial valuation period.

would plausibly result in lengthening backlogs of cases, and long delays for appellants, as these tribunals determine the merits of the increased number of cases. BTA expenditures are funded by the GRF.

The bill includes similar provisions for adjustment of tax valuations for tax years 2021 and 2022 to take account of the effects of the COVID-19 pandemic or a state COVID-19 order on the value of the property. The value determinations would be as of January 1 of each year, rather than October 1, but otherwise the provisions are similar to those for 2020.

As with the provisions for 2020, LBO does not have a basis for estimating the magnitude of the decline in property values that might result for tax years 2021 and 2022, but the tax revenue loss to local governments could be in the tens or hundreds of millions of dollars. The number of valuations for tax years 2021 and 2022 appealed to boards of revision and to the state Board of Tax Appeals could be sizable, though many such valuations may be lowered in complaints filed for 2020.

## **Property tax exemption of qualifying housing**

The bill would exempt from property tax housing for persons with mental illness or substance use disorder and their families residing with them, if the property meets certain requirements. It must be owned by an institution that is either qualified for federal income tax exemption as an IRC section 501(c)(3) organization with a primary purpose to provide supportive housing to such persons, or is owned or controlled by one or more such organizations. In addition, one or more of these tax-exempt organizations must receive at least some funding to provide such housing from the Department of Mental Health and Addiction Services, one or more county boards of alcohol, drug addiction, and mental health services, or a local continuum of care program.

As discussed in the bill analysis, a recent Board of Tax Appeals decision ruled that such housing is not tax exempt under current law. For nonprofit residential property to be tax-exempt, it must generally be specifically exempted in the Revised Code.<sup>2</sup>

LSC does not have independent knowledge of the number of properties in Ohio that meet the qualifications for tax-exemption in the bill. The analysis that follows is based on testimony in a hearing on the bill before the Senate Ways and Means Committee on February 17, 2021. One witness in that hearing said that approximately 6,000 housing units statewide would be affected. Another witness said there are more than 13,000 such housing units statewide.

Housing permit data provide a basis for valuing such units. In 2020, permits for 9,241 housing units in buildings with five or more units were obtained in Ohio, valued at \$873 million. The implied average unit value was about \$94,000, or a taxable value of about \$33,000 per unit at Ohio's 35% assessment rate. This provides an estimate of the statewide average replacement cost of such units, which may somewhat overstate the values that county auditors would place on such property. At \$33,000 per unit, 6,000 such units would have a taxable value of nearly \$200 million; 13,000 units would have taxable value near \$430 million. If we assume an average

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<sup>2</sup> BTA No. 2018-649, <https://ohio-bta.modria.com/casedetails/512991>.

statewide effective tax rate for class II real property of about 75 mills, taxes per year would range from \$15 million to \$32 million.

Witness testimony on S.B. 57 indicates that such property has generally been tax-exempt in the state. In the absence of the change made by the bill, how quickly cases would be brought to implement the Board of Tax Appeals position regarding the taxability of such properties, and how widespread such action might be, appears uncertain. The fiscal effect of the bill is evaluated in this fiscal note assuming that similar properties in the state would be widely deemed to be taxable under current law.

## **Tax increment financing service payment obligations**

The bill specifies that tax increment financing (TIF) service payment obligations arising from an agreement between the property owner and a local government guaranteeing future TIF service payment obligations against subsequent property tax exemptions are enforceable against subsequent property owners. This change applies to any proceedings commenced after, or pending on, the provision's effective date and any instruments recorded on, before, or after that date.

The change may result in cost savings to local governments by avoiding costly delays in securing financing for development projects, and may in some cases allow projects sought by local governments to be undertaken that might not be financed in the absence of the provision. The provisions of the bill would also apply retroactively to such TIF service payment obligations if proceedings in such cases are pending on the effective date of this change.

Under continuing law, minimum service payments by property owners to political subdivisions ensure sufficient funding to finance improvements made under TIF arrangements. A TIF is an economic development tool used by a county, municipality, or township to finance public infrastructure improvements and, in certain circumstances, residential rehabilitation. With a TIF, property owners are granted an exemption from property taxes on the increased value of property, but instead make minimum service payments to the subdivision. The minimum service payments fund public improvements related to property development, and the improvements are often financed by issuing debt backed by receipts from future minimum service payments.

The bill specifies that all TIF minimum service payment obligation agreements are enforceable against subsequent property owners, stating specifically that such an obligation shall be a covenant running with the land. Continuing law provides that such payments are to be considered taxes for all purposes, including for lien priority and collection, but does not specifically provide that such a payment is a covenant running with the land. This provision only applies to obligations arising from an agreement between a property owner and a local government. In other words, the bill clarifies that there are separate enforcement provisions for service payment obligations prescribed by statute and those obligations arising from an agreement between the property owner and a local government. The absence of such language in current law reportedly has resulted in difficulties obtaining financing, sometimes blocking or delaying development projects, particularly larger ones for which financing was sought from insurance companies. In practice, many service payment agreements address this issue by including such a clause.

## **Filing of property tax value complaints by tenants**

The bill authorizes tenants of commercial or industrial property to file property tax valuations complaints or counterclaims if (1) the tenants are required under the lease agreements to pay the entire amount of taxes charged against the property and (2) the landlords, either through the lease or otherwise, authorize the tenants to file the complaints or counterclaims. The bill would apply to complaints or counterclaims filed for tax year 2021 or any tax year thereafter.

By permitting additional parties to file property tax complaints, the bill may result in lower tax valuations and lower revenues to local governments. The situation that this provision of the bill addresses apparently is sufficiently common that the potential number of such complaints could be sizable. The magnitude of resulting revenue losses appears uncertain. The change plausibly could result in additional filings with BORs and perhaps also increase appeals to BTA. Increases in complaints would tend to increase costs of BORs and BTA, to lengthen delays and backlogs in considering complaints, or both. The magnitude of cost increases or delays appears uncertain. As noted above, BTA expenditures are funded by the GRF.



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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**S.B. 166**  
**134<sup>th</sup> General Assembly**

## Fiscal Note & Local Impact Statement

[Click here for S.B. 166's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Sen. Reineke

**Local Impact Statement Procedure Required:** Yes

Ruhaiza Ridzwan, Senior Economist, and other LBO staff

### Highlights

- Authorizing a nonrefundable tax credit against the state personal income tax (PIT) for employers equal to 15% of the total wages paid to a student participating in a career-technical education program would decrease PIT revenue, by up to \$5 million statewide per fiscal biennium. PIT revenue is deposited into the GRF, but a portion is transferred subsequently to each of the Local Government Fund (LGF) and the Public Library Fund (PLF). The LGF and PLF portions are then distributed to counties, municipalities, townships, and public libraries statewide.
- The Ohio Department of Education's administrative costs are likely to increase to process tax credit certificate applications and carry out other duties. In particular, there are likely to be costs to match the information an employer has about a student with the student's unique statewide student identifier (SSID) to protect student privacy. The amount of these costs will largely depend on implementation decisions.
- Affected joint vocational school districts (JVSDs) will gain revenue due to the bill's provision requiring JVSDs to be compensated like a traditional school district for the loss of tax revenue as a result of a tax exemption for the construction or remodeling of commercial or industrial property located within a community reinvestment area, depending on the specific compensation agreement.
- The bill requires the creation of a grant program to improve or expand career-technical education programming and a program to establish financial incentives for businesses to provide work-based learning experiences for students. The amount of state funding

provided to recipients will depend on program guidelines, procedures, and appropriation levels.

- The bill changes the entities that will receive and spend GRF-funded career awareness and exploration funds from individual school districts and other public schools to the lead district of each career-technical planning district (CTPD) but does not impact the statewide total amount of the payments or the purposes for which they may be spent.

## **Detailed Analysis**

### **Financial incentives for work-based learning experiences**

#### **Employers Providing Work-Based Learning Pilot Program**

The bill establishes the Employers Providing Work-Based Learning Pilot Program, which expires two years after the effective date of the bill. The Administrator of the Bureau of Workers' Compensation (BWC), subject to the approval of the BWC Board of Directors, is required to adopt a rule that prohibits the Administrator from charging against an employer's experience any amount with respect to a workers' compensation claim if (1) the employer provides work-based learning experiences for students enrolled in a career-technical education program and (2) the claim is based on a student's injury, occupational disease, or death sustained while participating in the employer's work-based learning experience.

If the required rule is adopted by the BWC Board, during the two-year period of the program, BWC would be prevented from modifying employers' experience-rating if such employers met the conditions above. Currently, employers' premiums that are based on experience-rating (i.e., expected claims cost), may be modified; as a result, their premiums may go up or down depending on their expected claims cost. Thus, this provision may potentially decrease revenue deposited into the State Insurance Fund. In addition, all premiums paid by employers are deposited into and all claims are paid from the fund. A BWC official characterized the financial impact of this provision as not measurable.

#### **Income tax withholding credit**

The bill allows an eligible employer to claim a nonrefundable tax credit against the personal income tax (PIT). Under the bill, an employer may claim a credit equal to 15% of an eligible employee's wages, where an eligible employee is a student under age 20 enrolled in an approved career-technical education program, and employed by the employer in fulfillment of a work-based learning experience, internship, or cooperative education program associated with that career-technical education program. The maximum tax credit is limited to \$5,000 per participant per year. The aggregate total credits that may be claimed by all employers under the program is limited to \$5 million per fiscal biennium. Employers are allowed to claim the credit directly against their own tax liability. In order to receive a credit, employers must apply for a tax credit certificate from the Ohio Department of Education (ODE).

Data relevant to estimating the revenue loss from the tax credit, related to actual amounts of wages and the number of employed Ohio high school students in an approved career-technical education program (see below), suggest the revenue loss is likely to reach the \$5 million per fiscal biennium limit. The GRF would bear 96.64% of any revenue loss that occurs in the

current biennium. Any reduction in total GRF tax receipts would also reduce the amount distributed to the Local Government Fund (LGF, 1.66%) and Public Library Fund (PLF, 1.70%).<sup>1</sup> Any reduction to the LGF and PLF would decrease distributions from the funds to counties, municipalities, townships, public libraries, and other political subdivisions in the state. Based on data from the American Community Survey (ACS),<sup>2</sup> approximately 113,352 high school students annually worked in the state during recent years and their estimated total earnings were about \$481.4 million per year with average weekly earnings ranging between \$116 and \$248. In addition, in FY 2020, a total of 68,565 full-time equivalent (FTE) students participated in career-technical education programs (33,955 in traditional school districts or community schools and 34,610 in joint vocational school districts); the Ohio Department of Education reports a slightly higher figure of 87,071.<sup>3</sup> If students enrolled in a career-technical education program earn wages similar to those of all employed high school students, the estimated total amount of wages for such students would be between \$262.6 million and \$561.4 million annually.<sup>4</sup> Multiplying the lower figure by 15%, the estimated PIT revenue loss from the proposed tax credit for all eligible employers statewide would be nearly \$40 million per year, well above the \$2.5 million maximum limit per fiscal year (taking the average of the biennium limit over two years).

ODE will likely incur administrative costs to process tax credit certificate applications, but the amount is uncertain. Processing tax credit certificate applications will be a new area of responsibility for ODE. In particular, the Department reports that it will need to determine a method to match the information an employer has about a student with the student's data verification code, also called the statewide student identifier (SSID). The SSID is the only student information available to ODE, as continuing law generally prohibits ODE from having access to a student's name, address, Social Security number, and other personally identifying information (PII). ODE contracts with a vendor that assigns an SSID to each public school student. Using an SSID, instead of the student's name for example, facilitates the collection and tracking of the data, while protecting the privacy of the individual student. ODE could take a number of different approaches to comply with the bill and continuing law's restriction on PII, which may involve contracting with a vendor, information technology system changes, or other solutions. As a result, the cost will largely depend on implementation decisions.

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<sup>1</sup> Under the codified law, the LGF and PLF would each receive 1.66% of GRF tax revenue. An uncoded provision of H.B. 110 of the 134<sup>th</sup> General Assembly temporarily increases the monthly percentage of GRF tax receipts allocated to the PLF in FY 2022 and FY 2023 to 1.70%.

<sup>2</sup> Source: *2015-19 American Community Survey Public Use Microdata Sample (Ohio)*, prepared by the Office of Research, Ohio Development Services Agency.

<sup>3</sup> Source: [FY 2021 Ohio Career-Technical Education Fact Sheet](#) published by the Ohio Department of Education, February 2021.

<sup>4</sup> The estimates are calculated as follows – for the lower range: 87,071 x \$116 x 26 weeks, (assuming employment for half the year) = \$262.6 million, and the upper range: 87,071 x \$248 x 26 weeks = \$561.4 million. The estimates assumed that such students only work for up to 26 weeks per year because according to ACS data, almost half of 113,352 high school students worked less than 26 weeks per year.

## **Other incentives**

The bill requires the Governor's Office of Workforce Transformation (OWT), in collaboration with ODE, the Department of Higher Education (DHE), and JobsOhio to create a program establishing other financial incentives for Ohio businesses providing work-based learning experiences for students enrolled in an approved career-technical program. The amount of state support that participating businesses will receive will depend on the nature of the incentive payments, the degree of program utilization by students and businesses, and appropriation levels if applicable (the bill does not appropriate funds for any additional incentives). The bill may increase the administrative costs of OWT, ODE, and DHE to develop other financial incentives and administer the programs.

These entities may use experience from similar existing programs to create the financial incentive program outlined in the bill. For example, OWT, the Development Services Agency (DSA), and ODE recently developed the High School Tech Internship Pilot Program to provide financial incentives for employers to hire high school interns in technology roles. Under the program, employers will receive reimbursements for part of the cost of providing paid internships to Ohio's high school students or recent graduates 19 years of age and younger in jobs where they gain technological skills and experience. The pilot program will provide reimbursements for 100 internships statewide using \$150,000 in bond proceeds from DSA's Third Frontier Initiative. An intern must be employed for a minimum of 150 hours and be paid at least \$12 per hour. Reimbursements are based on the age of the intern: \$1,250 for interns who are ages 17 years or younger and \$1,000 for interns who are ages 18 or 19. Employers may receive an extra \$100 in reimbursement if they can demonstrate that an intern has earned an industry-recognized credential on the Innovative Workforce Incentive Program list by the time of the reimbursement request.

## **Compensation of JVSDs located in enterprise zones**

The bill requires that a joint vocational school district (JVSD) be compensated at the same rate and under the same terms as a school district when a legislative authority of a municipal corporation or county enters into a compensation agreement with the school district for the loss of tax revenue as the result of a property tax exemption for the construction or remodeling of commercial or industrial property located within a community reinvestment area. This will result in increased revenue for affected JVSDs, the amount of which will depend on the specific compensation agreement.

## **Student Pathways for Career Success Grant Program**

The bill requires ODE to establish a Student Pathways for Career Success Grant Program to provide grants to the lead districts of career-technical planning districts (CTPDs) and Ohio Technical Centers to improve or expand career-technical education programming. The amount of state funding these entities will receive will depend on program guidelines and procedures that will be determined in rules adopted by the State Board of Education and appropriation levels (the bill does not appropriate funds for the program). ODE's administrative costs may increase to establish the program.



## **Career awareness and exploration funds**

H.B. 110 of the 134<sup>th</sup> General Assembly, the current main operating budget act, establishes a career awareness and exploration funds payment outside the school funding formula for school districts, community schools, and STEM schools. The payments are based on a per-pupil amount of \$2.50 for FY 2022 and \$5 for FY 2023. The bill modifies the payments by doing all of the following:

- Specifying that ODE must provide the funds to the lead district in each CTPD, rather than to each school district, JVSD, community school, or STEM school, as under current law;
- Requiring that each CTPD use the funds to deliver relevant career awareness and exploration programs to all students within the CTPD, rather than lead districts dispersing funds to each member district or school, as under current law;
- Making a conforming change to the formula for computing the payments so that the funds are computed for each CTPD based on the sum of the enrollment for all districts and schools within the CTPD instead of paid to individual districts and schools based on the district or school's enrollment.

The bill does not change the purposes for which career awareness and exploration funds must be spent. Nor does it impact the statewide total amount of the payments, as all school districts and schools belong to a CTPD. H.B. 110 earmarks \$4.2 million in FY 2022 and \$8.4 million in FY 2023 from GRF line item 200545, Career-Technical Education Enhancements, to make the payments.

## **Driver education course and industry-recognized credential**

The bill provides more options for a high school student to meet graduation requirements by permitting a student to obtain up to one-half unit of credit towards high school elective requirements or an approved industry-recognized credential upon completion of a driver education course offered by the student's school district or through any agency or organization that the district contracts with to offer a driver education course. Students choosing the latter may earn up to two points of credit toward a high school diploma through the workforce readiness graduation pathway (currently, students who select this pathway must earn 12 points of industry-recognized credentials to qualify for a high school diploma). The bill permits a CTPD to use a portion of career-technical education funds to provide a driver education course to high school students enrolled in the district.

The administrative duties of ODE and OWT will increase to assist the Superintendent of Public Instruction's industry-recognized credential committee in updating its list of industry-recognized credentials and licenses that may be used to qualify for a high school diploma to include a driver's license obtained by a student through a driver education course offered by a school district.

Under continuing law, traditional districts and JVSDs may make a driver education and training course available to high school students. High school students may enroll in their district's course, if offered, or a course from a private provider. Driver education and training is

regulated by the Ohio Department of Public Safety. School districts offering driver training and the course instructors must each be licensed.

## **Report card postsecondary readiness measure**

Current law requires ODE to include on the state report cards for the 2021-2022 school year and thereafter a postsecondary readiness measure under the revised rating system established by H.B. 82 of the 134<sup>th</sup> General Assembly. In general, this measure will display the percentage of students in a district or school's four-year adjusted graduation rate cohort that meet any of certain criteria that demonstrate readiness for college or careers. One of the criteria under current law permits students to demonstrate readiness by securing an OhioMeansJobs-Readiness Seal on their high school diploma and completing 250 hours of an internship or other work-based learning experience that is approved by the business advisory council that represents the student's district. The bill permits the internship or work-based learning experience to either be aligned to the career-technical education pathway approved by ODE in which the student is enrolled or, as under continuing law, approved by the business advisory council that represents the student's district.

ODE indicates that this provision will not impact its report card system costs, as the change aligns with structures ODE already has in place. Allowing additional types of internships or work-based learning experiences to count towards the postsecondary readiness measure may increase a district or school's performance on that measure.<sup>5</sup>

## **Dental assistants**

The bill allows a dental assistant who is certified by the American Medical Technologists to: (1) perform additional dental services, (2) be eligible to receive a dental x-ray machine operator certificate, and (3) take the examination to practice as an expanded function dental auxiliary (EFDA). Continuing law gives a dental assistant the option of being certified by two other private organizations for these purposes. The State Dental Board could realize an increase in fee revenue if these provisions result in additional individuals becoming eligible for a dental x-ray machine operator certificate (\$32 biennial fee) or EFDA registration (\$25 biennial fee); however, any increase is likely minimal. These fees would be deposited in the Occupational Licensing and Regulatory Fund (Fund 4K90).

## **Commercial Truck Driver Student Aid Program**

The bill makes several changes to the Commercial Truck Driver Student Aid Program, which was established in H.B. 110 to provide a combination of a grant and loan to eligible

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<sup>5</sup> Under continuing law, for the 2021-2022, 2022-2023, and 2023-2024 school years, the postsecondary readiness measure is not assigned a performance rating, nor is it factored into the overall report card rating. Rather, for those school years, the data is reported only. In general, a rating for the College, Career, Workforce, and Military Readiness (CCWMR) component, of which this measure is a part, will not be used to calculate the overall rating until the report cards for the 2024-2025 school year if, under continuing law, the Joint Committee on Agency Rule Review (JCARR) approves rules that ODE will develop to assign a performance rating to the component. However, if JCARR does not approve the rules, the component must remain a report-only component and cannot be factored into the overall rating.

students enrolled in a certified commercial driver's license program and committing to reside and be employed in Ohio for at least one year after completion of the program. Most notably, the bill makes the following changes to the program:

- Clarifies that eligible course providers under the program include commercial driver training schools certified by the Director of Public Safety and other approved programs offered at state institutions of higher education; private, nonprofit and for-profit institutions; and career centers and joint vocational school districts;
- Modifies how awards are distributed by requiring the Chancellor of Higher Education to make awards to eligible schools that, in turn, will distribute the funds to eligible students (instead of paying awards directly to the students);
- Requires the Chancellor to determine the grant and loan amount awarded to an eligible student, instead of specifying that the grant amount equal 50% of the student's remaining cost of attendance after the student's Pell Grant and expected family contribution (EFC) are applied to the student's instructional and general fees;
- Prohibits a loan received under the program from exceeding \$10,000 and the total grant and loan amount awarded to a student from exceeding the costs of tuition and related expense of a commercial driver training program;
- Eliminates the requirement that the amount of a grant and a loan awarded to an eligible student be in addition to what the student receives under the Ohio College Opportunity Grant (OCOG) need-based student aid program.

These modifications appear to be mostly clarifying in nature prior to implementation of the program. The bill declares an emergency with respect to these changes, which, therefore, will go into effect immediately. H.B. 110 provides GRF appropriations, unchanged by the bill, of \$2.5 million in each of FY 2022 and FY 2023 for the program, with earmarks of \$1.25 million in each of those fiscal years to be distributed by the Chancellor, separately, as grants and loans.

## **Northeast Ohio Medical University (NEOMED) provisions**

### **“State university” definition**

The bill adds NEOMED to the list of 13 public universities defined as a “state university.” The definition of “state university” appears to apply to several other laws that currently do not apply to NEOMED. Some of these potential new responsibilities include, but are not limited to, the following:

- Entering into a regional compact with other state institutions of higher education to examine unnecessary duplication of academic programming and to develop strategies to address regional workforce education needs (R.C. 3345.59);
- Permitting senior citizens to attend nontuition, noncredit classes (R.C. 3345.27);
- Issuing a report including certain data on student remediation (R.C. 3345.062); and
- Establishing an undergraduate tuition guarantee program (R.C. 3345.48).

To the extent that it is not currently performing these and other required duties, NEOMED may incur additional administrative costs. However, it is likely that some of these provisions will not impact NEOMED. For example, because NEOMED is a stand-alone public medical university, it would not establish an undergraduate tuition guarantee program.

### **Insurance option for treasurer**

Under current law, NEOMED's treasurer, prior to conducting the office's official duties, must give bond to the state for the faithful performance of the treasurer's official duties and a proper accounting for all of the moneys coming into the treasurer's care for an amount no less than the estimated amount in the treasurer's sole control. The bill permits, as an alternative to bonding, the NEOMED treasurer to be insured for faithful performance and modifies the amount of bonding or insurance for the treasurer to permit subtracting a "reasonable deductible" from the total bonded or insured amount. This alternative method appears to align NEOMED's treasurer bonding or insurance process with most, if not all, other state institutions of higher education.

## Appendix

### All House Bills Enacted in 2021

House Bill	LIS Required?	Subject
2	No	Creates and funds the Ohio Residential Broadband Expansion Grant Program
5	No	Modifies chemical dependency counselor licensing
6	No	Modifies laws governing certain professions due to COVID-19
7	No	Revises Probate Law, Guardianship Law, and Ohio Trust Code
8	No	Revises electronic recording of custodial interrogations
9	No	Prohibits certain sales of dextromethorphan
21	No	Regards organ donor registration and license plates
29	No	Permits certain persons to obtain Ohio veterans ID card
67	No	Seeks waiver from federal accountability school identification requirements
74*	No	Enacts the FY 2022-FY 2023 Transportation budget
75*	No	Enacts the FY 2022-FY 2023 Workers' Compensation budget
76*	No	Enacts the FY 2022-FY 2023 Industrial Commission budget
82	No	Eliminates required assessment for high school graduation
87	No	Exempts certain utility supply contracts from ten-year maximum
92	No	Requires specified reporting of child abuse in military families
106	No	Designates January as Radon Awareness Month
110*	No	Enacts the main operating budget for the FY 2022-FY 2023 biennium
122	Yes	Regards the provision of telehealth services
128	No	Revises electric utility service law and repeals portions of H.B. 6
133	Yes	Modifies the Ohio Residential Mortgage Lending Act and GrowNOW Program
137	No	Designates Ohio Tuskegee Airmen Day
167	No	Provides funding for rent and utility assistance

House Bill	LIS Required?	Subject
168	No	Provides grants to businesses, fairs, child care, and veterans homes
169***	No	Provides grants to bars, restaurants, and the lodging industry
170	No	Provides assistance to schools and other entities
172	No	Revises the Fireworks Law
176	No	Revises the Athletic Training Law
177	No	Allows government use of distributed ledger technology and blockchain
191	No	Designates the Don Manning Memorial Bridge
201	No	Prevents local governments from limiting use of natural gas
215	No	Enacts the “The Business Fairness Act”
222	No	Specifies that certain hospital nonprofits are separate entities
228	No	Regards state-administered municipal net profits taxes
244	Yes	Expands the use of educational technology for military families
252	No	Enters Ohio into the Audiology/Speech-Language Pathology Interstate Compact

\*Not required for budget bills

\*\*Vetoed by the Governor

\*\*\*Portions vetoed by the Governor

## All Senate Bills Enacted in 2021

Senate Bill	LIS Required?	Subject
1	Yes	Regards teaching financial literacy in high school
2	Yes	Changes criminal case competency procedures and enters Ohio into PSYPACT
3	No	Enters Ohio into the Nurse Licensure Compact
4	No	Exempts personal information of certain persons from Public Records Law
5	No	Enters the state into the Physical Therapy Licensure Compact
6	No	Enters the state into the Interstate Medical Licensure Compact
7	No	Enters the state into the Occupational Therapy Licensure Compact
13	No	Regards certain statutes of limitation and repose
18	Yes	Incorporates federal IRS changes
21	No	Regards emergency medical services and stroke patient protocols
22**	No	Establishes legislative oversight over Governor's and health orders
27	No	Authorizes Deferred Compensation auto enrollment/state employees
28	No	Authorizes the use of owls in the sport of falconry
30	No	Designates Ohio Overdose Awareness Day
36	No	Revises eligibility for crime victim reparations
40	No	Regards cigarette minimum pricing
42	No	Designates Ohio Diabetes Awareness-Heart Connection Week
49	No	Creates the payment assurance program for design professionals
52	No	Revises the law governing wind farms and solar facilities
54	No	Regards telecommunications fraud
57	Yes	Exempts certain housing from property taxation
58	No	Enacts Esther's Law concerning long-term care facility room monitoring

Senate Bill	LIS Required?	Subject
59	No	Enacts Ohio Veterans' Heritage Protection Act regarding war relics
80	No	Requires certain judicial candidates have party ballot designation
102	No	Exempts home brewers and home fermenters from liquor laws
108	No	Provides grants to bars, restaurants, and the lodging industry
109	No	Provides grants to businesses, fairs, child care, and veterans homes
113**	No	Revises the Fireworks Law
115	No	Revises the Ohio Pooled Collateral Program
126	No	Enacts Collin's Law: The Ohio Anti-Hazing Act
157	No	Regards children born alive after attempted abortion
162	No	Addresses Ohio turnpike toll evasion and disclosure of personal information
166	Yes	Updates career-technical education programs
217	No	Revises criminal background checks for certain professions
229	No	Governs the use of blended learning during the 2021-2022 school year
258	No	Establishes new Congressional districts for Ohio based on the 2020 U.S. Census

\*Not required for budget bills

\*\*Vetoed by the Governor

\*\*\*Portions vetoed by the Governor