OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 26

133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 26's Bill Analysis

Version: As Enacted

Primary Sponsor: Sen. Kunze

Local Impact Statement Procedure Required: No

Russ Keller, Senior Economist

Highlights

Fund	FY 2020	FY 2021	Future Years
State General Revenue Fund			
Revenues	Loss between $10.9 million and $11.9 million	Loss between $30.3 million and $31.7 million	Annual loss of at least $31 million
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Loss of $0.4 million	Loss of $1.1 million	Annual loss of at least $1.0 million
Counties and transit authorities			
Revenues	Loss between $0.6 million and $0.7 million	Loss between $1.2 million and $1.4 million	Annual loss of at least $1.2 million
School districts (school district income tax)			
Revenues	-$0-	Loss between $15,000 and $35,000	Annual loss between $15,000 and $35,000

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- Beginning with tax year (TY) 2020 returns filed in FY 2021, the bill reduces personal income tax (PIT) receipts for a deduction up to $250 granted to eligible educators that incur unreimbursed expenses for professional development and classroom supplies.

- Beginning with TY 2020 returns filed in FY 2021, the bill expands the types of income eligible for the PIT business income deduction by including legal services performed by an active attorney as well as lobbying activity performed by a person required to register with the Joint Legislative Ethics Committee.
- The bill delays the repeal of two PIT credits from TY 2019 to TY 2020, at which time the credits for campaign contributions and a pass-through entity investor's share of the Financial Institutions Tax can no longer be claimed by taxpayers.
- The bill creates two new exemptions in the state sales and use tax base beginning in FY 2020. The exempted products include (1) feminine hygiene products, and (2) incontinence supplies purchased for persons enrolled in the State Medicaid Program.
- The two sales tax exemptions granted by the bill would reduce the tax base for counties' and transit authorities' sales taxes. These local permissive taxes share the same tax base as the state sales and use tax. The annual potential revenue loss to local governments equals approximately 24.5% of state sales tax revenues.
- Under current law, the GRF would bear 96.62% of any revenue loss under the income and sales taxes during FY 2020 and FY 2021, while the Local Government Fund and Public Library Fund would bear 1.68% and 1.7%, respectively, of any such revenue loss.
- The reduction in Ohio taxable income under the bill would reduce school district income tax revenues to those districts that use Ohio taxable income as the basis for calculation of taxes owed. If the deduction authorized by S.B. 26 is claimed in proportional manner by taxpayers throughout Ohio, it would reduce school district income tax (SDIT) receipts between $15,000 and $35,000 per year.

Detailed Analysis

Income tax deduction for educator's expenses

The bill authorizes Ohio teachers to deduct up to $250 of unreimbursed expenses incurred each year for professional development and classroom supplies. The federal tax code already authorizes a deduction up to $250, so this bill exempts the next $250 of expenses incurred by educators. The bill is effective beginning with tax year (TY) 2020, which corresponds with tax returns filed in FY 2021.

The IRS regards eligible educators as those teaching kindergarten through grade 12, as well as any instructor, counselor, principal, or aide working at least 900 hours a school year in a school that provides elementary or secondary education as determined under state law.

Qualified expenses are unreimbursed amounts the educator paid or incurred for participation in professional development courses, books, supplies, computer equipment (including related software and services), other equipment, and supplementary materials used in the classroom. For courses in health or physical education, the expenses for supplies must be for athletic supplies. This deduction is for expenses paid or incurred during the tax year rather than the academic school year.[1]

If two eligible educators are married and file a joint return, they may both claim a deduction for the individual expenses, up to the $250 limit in law, for a combined total of $500 on their tax return.

The bill will be utilized by those individuals that annually incur more than $250 in unreimbursed expenses for professional development and classroom supplies. The first $250 may be deducted from federal adjusted gross income (FAGI), which serves as the starting point for determining Ohio taxable income. Any educator that incurs $251 or more in qualifying expenses during the taxable year will be able to deduct these marginal expenses, up to $250 (for those incurring at least $500 in expenses), when filing their Ohio tax return.

Based on marginal tax rates in continuing law, S.B. 26 could reduce an individual educator's state tax liability by up to $12 annually. However, the typical educator will save less than that amount because most teachers do not have income subject to the top marginal rate of 4.997%. For the most recent year for which data is available, TY 2016, IRS statistics show that 121,820 Ohio tax returns deducted educator expenses on their federal return. Depending on how many educators claim this personal income tax (PIT) benefit on their marginal education expenses (as well as the applicable tax rate), the bill could reduce PIT receipts between $0.6 million and $1.2 million per year.

Survey information from the National Center for Education Statistics (NCES) indicates that a substantial portion of Ohio educators will utilize the S.B. 26 deduction. In 2015, NCES surveyed teachers about their use of unreimbursed money on classroom supplies. Among school teachers surveyed, 44% spent less than $250, 36% spent between $250 and $500, and 20% spent more than $500.[2] The NCES survey did not ask about professional development expenditures, which are also permissible expenses that both the IRS and S.B. 26 allow taxpayers to deduct on their respective tax forms.

School district income taxes (SDITs) are based on either Ohio taxable income of taxpayers residing in the school district or on the portion of that income that is earned income, generally limited to wages and self-employment income. School boards and voters of individual school districts choose whether to enact income taxes in their districts and which of these two tax bases to use. For school districts in which Ohio taxable income serves as the starting point for calculation of SDITs, increasing the PIT deduction for eligible educator expenses will reduce SDIT revenues. Based on TY 2016 filings, approximately 10.4% of Ohio residents' income is sourced to one of these districts levying a traditional base SDIT. If the deduction authorized by S.B. 26 is claimed in proportional manner throughout Ohio, it would reduce SDIT receipts between $15,000 and $35,000 per year.

[1] https://www.irs.gov/taxtopics/tc458.

[2] https://nces.ed.gov/pubs2018/2018097.pdf.

Business income deduction for lawyers and lobbyists

The bill repeals a provision recently enacted in the FY 2020-FY 2021 main operating budget, H.B. 166 of the 133rd General Assembly, that would exclude lawyers' income and lobbyists' income from the eligibility for the business income deduction as well as the 3% flat tax rate on business income above the deduction threshold. The budget provision, which was effective beginning in TY 2020, excluded income from: (1) "legal services provided by an active attorney admitted to the practice of law in this state or by an attorney registered for corporate counsel status" under Ohio Supreme Court rules, and (2) "executive agency lobbying activity, retirement system lobbying activity, or actively advocating by a person required to register with the Joint Legislative Ethics Committee." The Ohio Department of Taxation later estimated this budget provision to increase GRF receipts by $25 million in FY 2021, so the repeal in S.B. 26 would forego this anticipated revenue gain.

S.B. 26 also requires any taxpayer claiming the business income deduction to specify the nature of their business on the state income tax form, as determined by the North American Industry Classification System (NAICS). The NAICS reporting requirement begins with tax returns filed for TY 2019.

Delay repeal of income tax credits

H.B. 166 also repealed two personal income tax credits beginning with TY 2019. By delaying the repeal until TY 2020, the bill reduces PIT receipts for FY 2020. The credit for campaign contributions and the credit for a pass-through entity investor's share of the Financial Institutions Tax will reduce FY 2020 GRF receipts by $2.9 million and $5.1 million, respectively. These estimated amounts were originally published in the Tax Expenditure Report, which was released in conjunction with the executive operating proposal.

Sales tax exemption for feminine hygiene products

S.B. 26 exempts tampons, panty liners, menstrual cups, sanitary napkins, and other similar feminine hygiene products used in connection with the menstrual cycle from the state sales and use tax. The exemption applies to all such items purchased on or after the first day of the first month that begins at least 30 days after the bill's effective date.

The bill would potentially reduce state revenue from the sales and use tax by between $3.2 million and $4.0 million per year, but only half of the estimated amount is expected to reduce FY 2020 receipts. The bill would also reduce the tax base for counties' and transit authorities' sales taxes because local permissive taxes share the same tax base as the state sales and use tax. The annual potential revenue loss to local governments, at approximately 24.5% of state sales tax revenues, would be between $0.8 million and $1.0 million. Future revenue losses would grow with inflation as prices for these items are expected to increase.

The estimates above are based on the estimated total sales of liners and tampons in Ohio, and tax expenditure estimates related to sales tax exemptions of feminine hygiene products from Minnesota and New Jersey, after adjusting for differences in tax rates and populations for Ohio. The State of Minnesota's Tax Expenditure Budget for Fiscal Years 2016-2019 reported an estimated revenue loss of $2.3 million per year from FY 2016 through FY 2019. The State of New Jersey's FY 2018 Tax Expenditure Report estimated a revenue loss of

$3.2 million. It should be noted that the exact tax statutes of these states may differ from the sales tax changes in this bill.

Sales tax exemption for incontinence supplies paid by Medicaid

S.B. 26 exempts from the sales and use tax certain incontinence supplies when those supplies are purchased for individuals enrolled in the state's Medicaid Program. Specifically, this exemption would apply to incontinence briefs (diapers), which is a purchase that Medicaid covers for persons with incontinence who are aged three or older. In addition to diapers, the exemption would apply to incontinence underpads, which are flat pads with an absorbent filler and waterproof backing. Based on a review of expenditures reported by the Ohio Department of Medicaid, this provision would reduce state tax receipts by $1.7 million per year, and the assumed GRF loss for FY 2020 is half of this estimated amount. The bill would also reduce the tax base for counties' and transit authorities' sales taxes because local permissive taxes share the same tax base as the state sales and use tax. The annual potential revenue loss to local governments, at approximately 24.5% of state sales tax revenues, would be $0.4 million annually. Future revenue losses may grow with inflation if prices for these items increase or the population afflicted by incontinence enrolled in Medicaid increases.

Local Government Fund and Public Library Fund

The GRF would bear 96.62% of any revenue loss under the income and sales taxes during the FY 2020-FY 2021 biennium, while the Local Government Fund and Public Library Fund would bear 1.68% and 1.7%, respectively, of any such revenue loss. These two funds would lose a combined amount of $0.4 million in FY 2020 and $1.0 million in years thereafter under S.B. 26. Under current law, the GRF would bear 96.68% of the revenue loss beginning July 1, 2021, with the other two funds each bearing 1.66%.

Food Farmacy Pilot Project

H.B. 166 created a Food Farmacy Pilot Project, which must "provide comprehensive medical, nutrition, and lifestyle support for food-insecure patients with type 2 diabetes and their families." S.B. 26 revised this uncodified language by replacing the "type 2 diabetes" reference with the term, "chronic diseases." The operating budget contains a GRF appropriation of $250,000 in FY 2020 and FY 2021 for the Food Farmacy Pilot Project, which is under the Ohio Department of Medicaid (ODM). The S.B. 26 provision does not change the ODM appropriation.

Public Office Compensation Advisory Commission

The bill abolishes the Public Office Compensation Advisory Commission, which was created by the recent main operating budget, H.B. 166. As of this date, the Commission does not have any appointed members, and there is no fiscal effect associated with its abolishment.

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