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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 268
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 268's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Rep. Jordan

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2022	FY 2023	Future Years
State General Revenue Fund			
Revenues	Loss of up to \$6.7 million	Loss of up to \$6.7 million	Loss of up to \$6.7 million
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Loss of up to \$0.2 million	Loss of up to \$0.2 million	Loss of up to \$0.2 million
Counties and transit authorities			
Revenues	Loss of up to \$1.7 million	Loss of up to \$1.7 million	Loss of up to \$1.7 million

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.

- The bill reduces the sales and use tax base, and thus decreases sales tax revenue. The actual revenue loss would be dependent on prices and purchases of investment metal bullion and coins. Thus, the revenue loss in any given year could be well below the yearly estimate above.
- State sales tax receipts are deposited into the GRF which would bear the majority of the revenue loss (96.68%). Any reduction to GRF tax receipts would also reduce the amount distributed to the Local Government Fund (LGF) and Public Library Fund (PLF) as these local funds receive distributions from GRF tax revenue (1.66% each).

- The bill reduces revenue from permissive local county and transit authority sales taxes. Those taxes share the same base as the state sales and use tax.

Detailed Analysis

H.B. 268 exempts sales of investment metal bullion and investment coins from the sales and use tax. H.B. 166 of the 133rd General Assembly (the main operating budget for the current biennium) reinstated the sales and use tax on these items effective October 1, 2019, after they had been made tax exempt by S.B. 172 of the 131st General Assembly. The bill defines investment metal bullion as any bullion described in section 408(m)(3)(B) of the Internal Revenue Code, regardless of whether that bullion is in the physical possession of a trustee; and investment coin as any coin composed primarily of gold, silver, platinum, or palladium. Therefore, the total base for this exemption combines taxable sales of these products.

In the Tax Expenditure Report published January 2019, in connection with H.B. 166, the Department of Taxation estimated that this exemption would reduce GRF sales tax revenue by \$5.4 million in FY 2020 and \$5.6 million in FY 2021.¹ The projections were based on 2018 sales data estimated at about \$88 million in Ohio, anticipated to increase to a taxable base of approximately \$97 million in FY 2021. Like most commodities, the prices of precious metal bullion and coins depend on supply and demand of each metal, monetary conditions, inflation levels (or the expectation of future inflation), and competition with newer types of investments (e.g., bitcoin) and, as a result, prices could be very volatile. Due to the volatility of prices, the yearly buying and selling of each individual metal or coin may increase or decrease, thereby modifying the shares of each metal or coin within the taxable base.

Recent data indicate growth rates for sales of products exempted by the bill may have been higher than previously estimated by the Department.² Based on recent yearly prices of gold, silver, palladium, and platinum, annual Ohio taxable sales are assumed to be between \$105 million and \$120 million. Associated tax revenue from the state sales and use tax on those sales would be between \$6.0 million and \$6.9 million. Accordingly, the yearly revenue loss from the bill might be within the same range, though LBO does not rule out that it may be higher in certain years. This fiscal note assumes that the bill goes into effect July 1, 2021.

Receipts from the state sales and use tax are deposited into the GRF. Under codified law, a portion of GRF tax receipts is subsequently transferred to the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.66%). Thus, the potential revenue loss to the GRF would be between \$5.8 million and \$6.7 million per year; and the potential yearly revenue loss to those local funds would total about \$0.2 million.

Permissive local county and transit authority sales taxes share the same tax base as the state sales tax, and are approximately 24.5% of state sales tax revenues. Thus, the annual

¹ These projections include data emanating from tax returns filed with the Department, augmented with data produced by other government agencies and information from other sources.

² For example, from calendar year (CY) 2018 through CY 2020, gold and silver prices increased about 40% and 12%, respectively. In the corresponding period, platinum prices increased about 3%, but palladium prices more than doubled.

revenue loss to local governments from county and transit authority sales and use taxes would be between \$1.5 million and \$1.7 million.

Price increases from most recent levels in the precious metal markets would likely increase revenue losses to the state and local governments. Alternatively, price declines would reduce estimated revenue losses. An unknown share of sales of investment metal bullion and investment coins occur through remote sales, including internet sales. A portion of those remote purchases likely escape sales and use taxes already. For such sales, the bill would not result in a revenue loss. Also, the reinstatement in 2019 of the sales tax on sales of investment metal bullion and investment coins might have reduced the amount of sales situated to Ohio for sales taxation. For these reasons, it is possible the fiscal note may overstate the revenue loss from the bill.