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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

S.B. 40  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for S.B. 40's Bill Analysis](#)

**Version:** As Passed by the House

**Primary Sponsor:** Sens. Brenner and McColley

**Local Impact Statement Procedure Required:** No

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### Highlights

#### “Forever Buckeye” policy expansion

- State institutions of higher education that enroll eligible students with high school equivalence certificates under the bill’s expanded “Forever Buckeye” in-state tuition policy may receive less tuition revenue under the bill since they will no longer be able to apply an out-of-state surcharge on tuition for these individuals.
- Conversely, the reduced tuition offered under the bill may incentivize some of these students to enroll in state institutions, which would increase tuition revenues as well as instructional costs at those institutions.
- State institutions may gain or lose revenue from state share of instruction (SSI) formula payments depending on how the enrollment of newly eligible Forever Buckeye participants change the institution’s share of student course and degree completions and other institutional outcome factors used in the formula.
- The bill does not necessarily increase the state’s cost for SSI formula payments, even if enrollment were to increase, due to the manner in which the General Assembly allocates SSI funding to state institutions.

#### Provisions related to regulation of free expression on campus

- The bill may minimally increase the administrative expenses of state institutions of higher education to adopt a specific policy on harassment that is consistent with the bill’s definition of “harassment”; publicize free expression policies; develop and distribute materials, programs, and procedures related to those policies; and to report on any courses of action that were implemented in accordance with the bill’s provisions regarding free expression on campus.

- Some institutions of higher education may forego some revenue due to the bill's prohibition on charging security fees to a student or a student group based on the content of their expression, the content of the expression of their invited guest, or the anticipated reaction to an invited guest's expression.

## Detailed Analysis

The bill grants residency status for in-state tuition purposes to individuals who have received a certificate of high school equivalency<sup>1</sup> in Ohio, leave the state, and return to enroll in an undergraduate or graduate program at an Ohio college, expanding the “Forever Buckeye” policy that currently exists for traditional high school graduates. It also prescribes the manner in which state institutions of higher education regulate expression and peaceful assembly on campus. Provisions with notable fiscal effects are discussed below.

### “Forever Buckeye” policy expansion

#### Participation

Since FY 2012, the Forever Buckeye policy has extended in-state tuition rates to any public or private high school graduate who leaves the state but returns to enroll in an undergraduate or graduate program at an Ohio college and establishes residency in Ohio. The program, effectively, exempts eligible students from the provision of the law requiring a 12-month period of establishing domicile in Ohio before becoming eligible for in-state tuition rates. All state universities, their regional campuses, and community and technical colleges participate in the program. According to adjusted data from the Department of Higher Education (DHE), approximately 7,800 students participated in the program in FY 2020, the latest year for which this data is available. Over 93% of the participating students were enrolled at university main campuses and their regional campuses. Table 1 below shows the number of participants for each institutional sector type from FY 2012 through FY 2020.

**Table 1. Forever Buckeye Participants by Institutional Sector, FY 2012-FY 2020**

Sector	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
University main	230	767	2,161	2,383	2,662	2,996*	2,858*	2,968*	4,282*
University regional	61	361	1,388	1,338	1,249	1,298*	1,211*	1,294*	3,004*
Community college	71	103	113	128	310	433	484	551	526

<sup>1</sup> Currently, there are three high school equivalency tests approved by the Ohio Department of Education (ODE) for the purpose of awarding high school equivalency certificates: the Tests of General Educational Development (GED), High School Equivalency Test (HiSET), and Test Assessing Secondary Completion (TASC).

**Table 1. Forever Buckeye Participants by Institutional Sector, FY 2012-FY 2020**

Sector	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>Total</b>	<b>362</b>	<b>1,231</b>	<b>3,662</b>	<b>3,849</b>	<b>4,221</b>	<b>4,727</b>	<b>4,553</b>	<b>4,813</b>	<b>7,812</b>

\*According to DHE, the University of Cincinnati's (UC's) method of reporting residency status likely overstated student participation in the Forever Buckeye Program for its main and regional campuses from FY 2017-FY 2020. Therefore, this analysis calculates the average annual percentage changes in participation for all non-UC main and regional campuses from FY 2016 to FY 2017, FY 2017 to FY 2018, FY 2018 to FY 2019, and FY 2019 to FY 2020 and applies those percentages to the FY 2016 amount reported by UC for each institution sector type.

The number of individuals newly eligible under the bill is uncertain given a lack of data regarding where Ohio students obtaining high school equivalency certificates reside after obtaining the certificate. Nevertheless, the number of newly eligible individuals that will participate is likely less than the number of traditional high school graduates that currently benefit. This is because there are far more traditional high school graduates than individuals attaining a high school diploma through a high school equivalency test. As a point of reference, over 130,000 Ohio students graduate high school each year through the traditional route, according to various data published by ODE and the National Center for Education Statistics. In contrast, ODE indicated that about 6,500 students in Ohio completed and passed a high school equivalency test in 2019. In any case, if the number of new students participating in Forever Buckeye under the bill follows the same trend in participation as under the current policy, the number of students may start out relatively low and increase over time as awareness builds.

### **Tuition revenues**

State institutions generally can charge a higher tuition rate to out-of-state students than they can for in-state students. Under the bill, state institutions will receive less tuition revenue for the newly eligible Forever Buckeye participants that would have otherwise attended the institution at out-of-state tuition rates because the student does not "reside" in Ohio. Table 2 below shows that, in FY 2021, the average in-state tuition and general fees for undergraduate students enrolled at the main campus of one of the state's 13 public four-year universities is \$10,076, while the average out-of-state undergraduate tuition and general fees charged to a student is \$19,954. The difference, \$9,878, represents the average amount of the annual revenue loss per student at those locations due to the bill if it is in place in FY 2021. The difference would be less for students that attend community and technical colleges. The annualized in-state rate at those institutions averaged \$5,012 while the out-of-state rate averages \$10,246, for an average difference of \$5,234.

**Table 2. Average Annualized Undergraduate Tuition and General Fees by Residency and Sector, FY 2021**

Sector	Average Out-of-State Undergraduate Tuition and General Fees	Average In-State Undergraduate Tuition and General Fees	Difference
University main campuses	\$19,954	\$10,076	\$9,878
University regional branches	\$16,708	\$6,120	\$10,588
Community colleges	\$10,246	\$5,012	\$5,234

On the other hand, offering in-state tuition to these students may provide an incentive for them to attend Ohio institutions. That is, the proposal may attract some students to Ohio institutions that otherwise would not have enrolled. Ultimately, the proposal's fiscal impact on tuition revenues will depend on the type of institution the students attend and the mix of eligible students that (1) would have paid out-of-state tuition rates to attend an Ohio institution before establishing residency and (2) would not have attended an Ohio institution but for the bill's policy. Any increase in revenue as a result of additional students will be offset, at least in part, by the cost to educate the new students.

### **State share of instruction**

State share of instruction (SSI) is the state's primary funding source to support the instructional costs of the state's 61 public universities and community and technical colleges. Generally, only in-state students are counted in the SSI distribution formula. This is the main reason that tuition rates charged to out-of-state students are significantly higher than those charged to students that reside in this state. The General Assembly determines the overall amount appropriated for SSI payments each year. The SSI formula then allocates funding to institutions based on prescribed percentages for certain institutional outcome factors, such as student course and degree completions. In general, each institution's allocation is based on the campus's share of the total for each formula component.

Since the General Assembly determines overall SSI funding through annual appropriations, the proposal would not necessarily increase the state's cost for SSI formula payments even if enrollment were to increase. However, the institutions in which the students newly eligible for in-state tuition enroll may gain some additional SSI funding depending on whether the institutions attain a greater share of the statewide amounts computed for each formula component. Likewise, the institutions whose share of the formula components decreases may receive less SSI funding. In FY 2020, the latest year for which SSI data is available, the average SSI distribution per student was \$6,471 for the state's public four-year universities and regional campuses and \$4,870 for community and technical colleges.

## **Provisions related to regulation of free expression on campus**

### **Policy and reporting requirements**

The bill may minimally increase the administrative expenses of state institutions of higher education to comply with various policy and reporting requirements. In particular, each state institution must:

- Adopt a policy on harassment that is consistent and strictly adheres to the bill's definition of "harassment";
- Make public any policies, regulations, and expectations of students regarding free expression on campus in its handbook, on its website, and in its student orientation programs;
- Develop and distribute materials, programs, and procedures to ensure that all administrators, faculty, and any other employees who are responsible for the discipline or education of students understand the policies and regulations regarding free expression on campus;

- Report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, within 180 days of the bill's effective date, on the courses of action implemented in accordance with the bill's provisions concerning free speech and post the report to its website. A state institution that is sued for an alleged violation of free expression rights must submit a supplemental report that includes a copy of the complaint within 30 days of the action.

### **Prohibition on charging security fees**

The bill prohibits state institutions of higher education from charging security fees to a student or a student group based on the content of the student or group's expression, the content of the expression of their invited guest, or the anticipated reaction to an invited guest's expression. State institutions may forego some revenue to the extent that they currently charge such fees.