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Senate Finance Committee
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HB 5 Sponsor Testimony

Chair Oelslager, Vice Chair Coley, Ranking Member Sawyer, members of the Senate Finance Committee, Ohio is at a critical time in history as we work together to provide and retain jobs in Ohio and improve our economy. Thank you for the opportunity to provide sponsor testimony on Amended Substitute House Bill 5, an extremely important piece of legislation the Ohio General Assembly will consider this session.

Before being elected to the Ohio House, I served for 12 years as Mayor of Grove City. It was a tremendous opportunity for me to learn about the operations of a city in Ohio and its reliance on municipal income tax revenue. With this background, I understand that a predictable revenue stream is important to municipalities as we strive to create a uniform municipal income tax code. We have worked diligently with our partners to make this as revenue neutral and as business friendly as we possibly can make it. This is a highly complex and challenging opportunity we have before us. The basis for good tax policy should include simplicity and predictability. Neither is currently found in Ohio's municipal income tax code. Ohio has the most complicated and illogical local income tax system in the United State of America. A *Columbus Dispatch* editorial referred to it as a "crazy-quilt system of municipal income taxes."

- Municipal income tax legislation was first enacted in 1946 in Ohio.
- Ohio is the only state in the nation where municipalities set their own rules and regulations, with almost 600 different municipalities utilizing about 300 different forms to collect local income tax on an annual basis.
- The next closest state with the highest number of forms is Pennsylvania, with a total of three forms for the entire state.
- International site selectors say Ohio's municipal tax system is the second highest negative factor (the first being the negative labor environment) when it comes to attracting new employers.

- Only ten states in the country have a municipal tax. Ohio is the only state where each city creates their own definition of income, set their own rules and regulations, mandate use of their own forms and assess varied amounts of penalties and interest.

Two years ago, I served on the Tax Structure Review Study Committee and travelled the state to receive feedback on our tax system throughout the state. At every location, even though municipal income tax uniformity was not an agenda item, it was brought up by businesses.

More recently, the House Workforce Development Task Force met across the state. Again, the lack of municipal income tax uniformity was in the top three issues raised, repeatedly, as a major deterrent to businesses operating in Ohio. One of the recommendations listed in the committee report is to encourage a uniform municipal tax policy to be adopted to eliminate multiple and confusing tax filings that are a burden and cost to manufacturers.

The following includes some of the statements shared at the hearings:

- From Stephen Lewis (Director of Strategic Planning, Manufacturing Business Office, Ford Motor Company): “Our challenge is the complicated municipal tax system in Ohio. Ford files numerous city tax returns and each return has different sets of rules on how things are taxed remitted, different muni tax withholding rules are burdensome as an employer, it is an overly complex and burdensome system and uniform rules would help.”
- From Mark Russell (President & Chief Operating Officer, Worthington Industries): “Muni tax needs to be simplified. It is a historical accident of complexity, and we support streamlining.”
- From Michelle Kuhrt (Vice President Corporate Tax, Lincoln Electric): “Ohio has without question the most complicated municipal taxing system in the country. MAPI is surprised and amazed at Ohio’s muni tax system; it is a significant administrative burden.
- From Rodney Phipps (VP of Finance, Pentaflex): “Municipal tax reform needs to happen- it’s a mess in the state of Ohio.

The compliance burden is particularly difficult for small businesses who cannot afford to hire dedicated staff or outside professionals to research the potentially 600 different definitions, rules, and regulations that are not only imposed on their business but also on their employees. Either option adds an expense that is not necessary in other states. Furthermore, for taxpayers who prepare and file their taxes in multiple cities, it is not uncommon for the cost of complying with the law to exceed the tax liability.

The current structure is an economic development barrier to retaining and attracting jobs and a costly regulatory burden for businesses and individual taxpayers. International site selectors

have indicated that our state's complex local tax structure is one of the top two barriers for doing business in Ohio. We have also spoken with companies who relocated to Ohio who later indicated that if they knew about our local tax structure that they would have never moved to Ohio. Many of these Ohio businesses not only have to keep track of how many hours were worked in each jurisdiction, but they also likely have to file under different terms in each one-making Ohio by far the most challenging state in the nation in this practice.

Municipal income tax uniformity has long been a legislative priority for many individuals and business taxpayers. H.B. 5 will positively affect those from a wide array of professions, such as lawyers, realtors, building contractors, physicians and nurses, landscapers, retail merchants, truck and bus drivers, and numerous others. These people live in our own backyards, and it is our duty to support the taxpayers of our state as best we can. That fact is exemplified by the 32-member Ohio Municipal Tax Reform Coalition, a broad-based coalition of state and local professional associations, trade organizations and Chambers of Commerce representing virtually all sectors of Ohio's employers.

Over 353,000 employers and thousands of individual taxpayers are represented by the Municipal Tax Reform Coalition, including the following:

1. Ohio Chamber of Commerce
2. National Federation of Independent Businesses (NFIB)- Ohio
3. Ohio Society of CPA's
4. Associated General Contractors of Ohio
5. Columbus Chamber of Commerce
6. Council of Smaller Enterprises (COSE)
7. Greater Ohio Policy Center
8. Ohio Insurance Institute
9. Cincinnati USA Regional Chamber
10. Dayton Area Chamber
11. Toledo Regional Chamber
12. Central Ohio NECA
13. Greater Cleveland NECA
14. North Central Ohio NECA
15. Ohio Cable Telecommunications Association
16. ABC of Ohio
17. Ohio Newspaper Association
18. Ohio Manufacturers' Association
19. Ohio Contractors' Association
20. National Electrical Contractors Association
21. Associated Builders and Contractors of Ohio
22. Ohio Home Builders Association
23. Ohio Association of Realtors

24. Ohio Automobile Dealers Association
25. Ohio Trucking Association
26. Ohio Council of Retail Merchants
27. Ohio Produce Growers & Marketers Association
28. Ohio Nursery & Landscape Association
29. Ohio Restaurant Association
30. Ohio State Bar Association
31. Ohio State Medical Association
32. Ohio Oil & Gas Association

The language contained in Am. Sub. H.B. 5 is a direct result of continued negotiations for **over three years of negotiations** between representatives of the Municipal Tax Reform Coalition and city representatives. This bill represents an **enormous amount of compromise** language that indeed aims to mitigate potential negative revenue impact incurred by municipalities and businesses. Likewise, there was a high level of inclusiveness during this process by allowing various organizations, including the Ohio Society of CPA's, the Ohio Chamber, the National Federation of Independent Businesses, the Ohio Municipal League (OML), and non-OML cities, to partake in discussions and provide their input. As such, there are aspects of the bill that both sides like and dislike, as both sides have language in the substitute bill that they contributed. However, it is important to move forward. We have dedicated countless hours to creating the best bill possible for all, taking into account all sides' concerns. The bill before you reflects the shared goal of making Ohio competitive nationally and internationally and strengthening our economy. This issue has received ample time and dedication to delivering the best bill possible for the state of Ohio, and now is the time to change.

Economic development is a critical issue in keeping Ohio's economic future competitive. H.B.5 will make Ohio more competitive, keep the businesses we have, and attract new investments and jobs. The lack of uniformity has been a deterrent to businesses seeking to invest in Ohio. During the more than 60 hours of testimony in the Ohio House, we heard from several companies who have relocated out of Ohio specifically because of our municipal income tax system. Additionally, multiple witnesses stated that they annually fill out 25-30 separate municipal income tax forms. In response to H.B. 5, the number of tax returns that will need to be filed will be dramatically reduced for all taxpayers. The price of the stamp on the outside of the envelope should never be more than the amount written on the check inside. Under our current system, this scenario is a reality.

The substitute bill is designed to ensure no tax increases. As a result, there will be a revenue loss to some municipalities. However, there is also opportunity for revenue gain based on the number of companies and taxpayers who currently are non-compliant with paying municipal income tax.

The bill preserves municipal home rule, and nothing in the bill prevents a municipality from raising the revenue it needs to provide desired city services. As current law, cities may increase their rates up to a rate of 1% and decrease their credit without a vote of the people. In order to achieve a higher tax rate, cities must simply show their citizens that the rate increase is needed and obtain their approval.

Sub. H.B.5 allows taxpayers to offset gains and losses from municipal flow-through entities or business ventures in the year they are first incurred. This keeps more dollars in the taxpayer's hands and ensures no taxpayer will experience a tax increase as a result of the changes in the bill. There is now also a formal outline of Ohio municipal income tax taxpayers' rights and responsibilities, which several municipalities helped to draft.

The expansion to 20 days and other changes to the occasional entrant rule will increase simplicity and reduce businesses' cost of complying with the municipal income tax system. Furthermore, the procedural and appeal provisions add uniformity to the system and help to ensure fair treatment of taxpayers.

HB5 is NOT calling for a centralized collection system, and it never has.

One of the main issues of compromise was on the Net-Operating-Loss carry-forward. Businesses are established with the goal of making a profit over the long haul, not simply in any particular year. While taxes are measured on a 12-month basis, this is simply an accounting tool used to facilitate the collection of tax revenues.

Over a 10-year period, both companies A & B made the same amount of profit, yet only Company A paid taxes. This penalizes Company A and places it at a competitive disadvantage to Company B. By allowing losses to be carried over for up to 5 years, Company A would not be disadvantaged by the tax system and would be on a level playing field with Company B.

Not only does the lack of NOL carry-forward provision create economic development challenges for many cities, it creates an overall challenge for Ohio to attract, grow and retain jobs when businesses compare Ohio to other states.

For accounting purposes, an NOL carry-forward is treated as an asset that is carried on the business' balance sheet. Only by continuing to operate can the business maintain and use this asset. This can create an incentive for a business to stay in Ohio to leverage this asset, leading to better job retention.

Mandating a five year carryover of an NOL is appropriate tax policy. Both the Ohio and the federal government permit 20 year NOL's.

Many city estimates of revenue losses resulting from the NOL carry-forward provision is based on 2008 & 2009, one of our state's worst economic time periods, with no independent verification.

This bill establishes the Net Operating Loss Review Committee who will review and analyze city tax data from 2011, 2012, and 2013 in order to estimate the real impact the NOL carry-forward provision may have on cities in 2017 and in the future. The Committee must issue a report with its findings and any recommendations by May 1, 2015, during the next biennial budget process. As a result, the General Assembly could address the revenue shortfalls, if necessary, in the budget bill.

In short, Substitute House Bill 5 increases simplicity, the level of clarity, and makes uniform treatments across the board. It minimizes loss of revenues for municipalities as much as possible and allows a level of flexibility for those municipalities. The bill advances Ohio's competitiveness, reduces costs of compliance and administration, and increases transparency. Furthermore, this bill has been designated as a "Key Vote" by FIVE organizations. This is the highest number of key votes for a single legislation that I can recall, thus indicating its importance.

We welcome the opportunity for continued input from the various interested parties as we work together in the 130th General Assembly to make this a significant bill that can be supported by all interested parties on behalf of the people of Ohio and Ohio's future.