



Written Testimony regarding House Bill 49
Robert L. Scott, Vice Mayor Kettering, Ohio

The Ohio House of Representatives
Ways and Means Committee
Representative Schaffer, Chair

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Mr. Chairman, Vice Chairman Scherer and committee members, my name is Rob Scott. I am the Vice Mayor for the City of Kettering. Professionally, I am an attorney and a consultant. I am representing Mayor Don Patterson and my fellow members of Kettering City Council. Thank you for the opportunity to testify regarding House Bill 49.

I am here today to convey strong opposition to HB 49. Governor Kasich's proposal to institute a state-operated central-collection program for the Ohio municipal business income tax returns and to eliminate the uniformly applied "throwback" rule is a detriment to our city and to cities throughout the State. These are the latest examples of the State's insistence on significantly eroding local control. Of greatest concern are the numerous clever maneuvers hidden throughout the bill which open the door for escalated negative impacts in the future.

We have many concerns with the proposed centralized collection of municipal business income taxes by the State of Ohio.

For the City of Kettering, income tax revenues represent 80% of our general fund revenues, the funds used to provide public safety and all other city services to our taxpayers living and working in Kettering. In early 2015, the City received an upgrade in our bond rating from Aa2 to Aa1 from Moody's that was tied significantly to our financial management, which includes our success in the generation of income tax revenues.

As other revenues remain stagnant or decline, the proper and careful administration of the City's largest revenue source, income tax, becomes even more critical. We work tirelessly to provide the high level of services and amenities that will attract and retain our residents and business community to ensure the stabilization of this crucial revenue source.

Thirty years ago, the City of Kettering brought collections in-house after having them collected by another municipal tax operation for years. This change was made for improved customer service, improved auditing, improved collection of delinquencies, and overall improved administration. We know how ineffective and inefficient it was to have someone else collecting our taxes, and the State is suggesting that we go backward in service to our taxpayers.

Having one's traditional role questioned, as HB 49 does for municipal business income tax collection, is not a very comfortable experience. But please understand that I'm not here today because this proposal is merely uncomfortable. I'm here because HB 49 is impractical and not in the best interest of our city or our State.

Our estimate is that the 1% collection fee will equate to approximately \$63,000 per year for Kettering. While this may seem immaterial, we do not see the service proposed by the State as a value-add for our organization. We take our responsibility to be wise stewards of fiscal resources seriously, and as such we would never willingly enter in to a contract involving such expense without confidence that the investment was absolutely necessary and would provide a significant enhancement of our services. This is clearly not the case in this proposal.

In addition, the proposal offers no guarantee that the collection fee will not be increased in the future. This is the first of many clever maneuvers in the bill which position the State to take further advantage of municipalities down the road. What will happen when the State does not bring in the anticipated level of revenue due to the lack of proper level of review, audit, and identification of businesses that should be added to the tax rolls? I think we can all predict the answer.

Our ability to audit and enforce accurate filing and correct returns is absolutely critical. Under HB 49, the City will lose access to our business returns for audit purposes and the proposed centralized collection model offers zero opportunity to ensure that returns filed with the State are accurate. We receive an average of 2,900 business net profit returns each year, and we review every return; is the State going to do this for each jurisdiction? Without the business returns to review, we will lose potential withholding revenues which are generated during audits of business wage deductions cross-referenced to withholding accounts. During calendar year 2016 alone, we made 70 adjustments to business tax returns that increased balances due, with a resulting increase in tax revenues of more than \$87,000.

The City will lose control over the tax base. We currently review occupancy permits and closely monitor new businesses; this bill would hand over all control of business net profit taxpayers to the State.

The centralized collection mandate for business tax returns proposed by the Governor will again strain municipalities by further reducing revenue and by forcing an unnecessary

separation of service to our citizens. Customer service will significantly decline, particularly because there are no local State service centers in our community. We provide a high level of friendly, professional customer service, which the State has not demonstrated that they can provide. Currently, Kettering taxpayers can easily receive in-person assistance.

With the proposed elimination of “business taxpayer” from chapter 718 of the O.R.C, we have no obligation or right to collect business tax returns. If a business or tax preparer calls our office, we should in theory tell them to call the State. We will not. We value the importance of serving our citizens. We will provide the same personal assistance we always have. We will even go so far as to accept the return from them and mail it to the State. Our reward for doing what we should? A happy customer, and an unjust 1% fee assessed from the State since we did their work for them.

There is also a concern that the proposed quarterly distribution method could pose significant risk of reduced revenues for Kettering. Under the current HB 49, the State would distribute our funds net of their collection fee quarterly, with a pro rata share of investment earnings since the last payment. By doing so, the State is taking control over the City’s ability to invest funds. The City of Kettering, as a charter city, has an investment policy that allows some additional flexibility in the safe investment of funds. Kettering would be relinquishing control over millions of dollars of available funds to State control. In Kettering, the up to 90-Day delay may result in decreased interest earnings related to the diversion of more than \$6 million to the state disbursement process.

HB 49 proposes renaming municipal income tax or local tax to State tax. Here we have another clever maneuver to undermine municipalities. Rather than municipal income tax, the renaming of the collection to State tax implies that the funds are no longer under control in any way by the municipalities. What is to prevent the State from determining in the future that they alone hold the authority to dictate distribution of State tax since it is no longer a municipal tax? The State’s intent to remove control from municipalities can be further seen in the change in the definition of “taxpayer” to mean only an “individual.”

The proposed elimination of the “throwback” rule, another clever loophole in HB 49, will have devastating consequences on cities throughout the State. Eliminating these sales from the current sales factor will result in no taxation of these sales by municipalities in Ohio. This proposal creates an uneven playing field, favoring certain types of businesses over others, all at the expense of the local jurisdictions which provide services including public safety and infrastructure maintenance for these specialized business facilities.

In the more than 10 years that the Ohio Business Gateway (OBG) has been in operation, there have been problems in the mechanism that provides data to the municipalities. Even up to the

current date, e-mails are received advising us that transmissions are inaccurate or will be delayed. To date, OBG's promises to make improvements in the software have not materialized. The idea that the State of Ohio can take on the processing of business returns for every municipality in the State through reliance on the OBG does not seem reasonable based on the track record of severely lacking performance.

It should be noted that businesses in Ohio currently have the option to submit their municipal business income tax returns through the Ohio Business Gateway. However, most businesses don't in part because the service from OBG is so poor and more significantly because the service and reliability that they receive at the local level is far superior.

Rather than moving the very flawed HB 49 forward, we implore the State of Ohio make planned improvements in the usefulness and performance of the OBG and leave the collection and administration of business returns to the experts in each municipality. Municipal codes are already uniform as to the taxation of business entities. If the OBG were improved, business entities would be more likely use it. Furthermore, businesses in Ohio are currently operating under lesser State imposed regulations than they will be forced to adopt as result of HB 49.

We fully understand that the intent of the legislation is to demonstrate that Ohio is pro-business. Please understand that we join the State in supporting efforts to attract and retain business to Ohio. We contend that the best way to demonstrate that we are all pro-business is to continue to provide exceptional customer service at the local level, and to ensure that local jurisdictions have the financial resources that allow us to deliver the services and amenities that make our communities thrive.

I respectfully ask that you consider our strong objections to these proposals and that you stand with municipalities, and the immensely valuable small businesses we serve, as the true economic engines of our state. We ask that you oppose these proposals and vote instead to strengthen and invest in our local communities for a safer, stronger, more prosperous Ohio.

Thank you for your time. I, and our City Manager Mark Schwieterman, would be happy to answer any questions.