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**OHIO SENATE FINANCE COMMITTEE**  
**Opposition Testimony – Am. Sub HB 110 – The State Operating Budget for FY 2022-23**  
**Keary McCarthy, Executive Director**

Dear Chair Dolan, Vice-Chair Gavarone, Ranking Member Sykes, and Members of the Ohio Senate Finance Committee, on behalf of the Ohio Mayors Alliance, a bipartisan coalition of mayors in Ohio's largest cities and suburbs, we write to express our strong opposition to a provision added to the Senate sub-bill of HB 110 that would retroactively change a temporary law passed last year (Sec. 29 of HB 197). This will likely have significant fiscal and administrative impacts on many of Ohio's local communities and, we believe, also threatens to undermine state and local economic recovery efforts.

The provision in question would, among other things, extend the temporary remote working municipal tax issue approved last year in Sec. 29 of HB 197 to the end of 2021. It would also retroactively change the meaning of HB 197 to allow individuals working remotely in a different jurisdiction to file refunds for tax years 2020 and 2021. We agree that concluding this provision at the end of the year makes sense, but we strongly disagree with changing the law to allow individuals, temporarily displaced by the pandemic, to retroactively file refunds. This violates both the spirit and the intent of the temporary law that the legislature unanimously passed last year and cities have been relying on to navigate the numerous challenges brought on by the pandemic.

We know that remote working is here to stay. What we do not know is how significant this shift will be and what long-term impacts it will have on the fiscal health of Ohio's cities. Local leaders are bracing for those changes knowing that a higher percentage of working-from-home will mean lower municipal income tax revenue in many of our communities. The Regional Income Tax Agency (RITA) estimated that if there is a 30 percent shift to working-from-home, 254 of the nearly 300 communities it serves would see net revenue losses, in some cases as much a 20 percent reduction.

While we agree that concluding Sec. 29 of HB 197 at the end of this year is necessary, we know that many of our communities will face significant revenue losses next year and beyond because of remote working. The threat of these future revenue losses, combined with the losses cities will face processing two years of retroactive refunds, will quickly create an untenable fiscal situation for many Ohio communities. Considering the extremely high work-from-home rates in 2020, and in the early months of 2021, the potential fiscal impacts of refunds for these two years could be significant.

Many of our cities have received an important infusion of federal support to local recovery efforts. However, it would be a grave mistake to think that these dollars can simply be used to address the potential revenue shortfalls noted above.

First, not all cities have received these funds. Only the entitlement communities have received a direct allocation of funds and it is only half of the total allocation. There is no guarantee that the second tranche of funding will come next year. Some on Capitol Hill have already proposed repurposing these funds for the next federal infrastructure package and not allocating them to local governments. Furthermore, the US Treasury guidance is in some ways more restrictive than some projected and the final guidance has not yet been approved.

Second, the non-entitlement communities have not yet received their allocations. These funds will come through the state and must be appropriated by the legislature. The risk of the proposed changes in the Senate sub-bill are potentially the greatest for these communities, especially those that are heavily comprised of service-sector jobs. These communities in our coalition are Dublin, Kettering, Fairfield, Strongsville, and Grove City, but there are many more similar communities throughout the state. Dublin, for example, could lose as much as \$25 million in refunds going back to 2020, but will likely only see around \$9 million in federal aid.

Instead of imposing retroactive refunds going back to 2020, we propose removing that language from the sub-bill entirely and simply sunsetting the original Sec. 29 of HB 197 provision at the end of this calendar year. Should other changes need to be addressed before end of this year, we would prefer the legislature consider those changes separately as both employers and cities gain a better understanding of what the remote working landscape will look like in 2022 and beyond.

Thank you for the opportunity to testify. I would be happy to take any questions at this time.

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#### **Background on Retroactive Refunds and the Individual Tax Liability**

The provision in the Senate substitute bill changes Sec. 29 of HB 197 to only apply to an “employer's tax withholding obligations and net profit calculation, and not to an employee's actual tax liability.” This clearly contradicts the temporary provision passed last year, which according to the Ohio Legislative Service Commission analysis:

“Treated income earned by an employee required to work at a temporary worksite because of the emergency as being earned at the employee’s principal place of work, potentially affecting the municipal income tax withholding and liability of the employee and the employer.” (Ohio Legislative Service Commission, HB 197 Analysis, P. 6)

The impacts of this change are significant given that it would allow refunds back to 2020. This tax year concluded 6 months ago and retroactively opening cities up to unbudgeted liabilities because refunds would now be available is hugely problematic. Further, this is also the year that all non-essential workers in Ohio were forced, by order of the state, to work from home from March to May of 2020. Yet, even after that order was lifted, we know that tens of thousands of Ohioans continued to work remotely. The result is that the volume of refund requests for 2020 could be significant