Ohio House Ways and Means Committee
House Bill 335
Ohio Association of School Business Officials (OASBO)
June 18, 2025

Chair Roemer, Vice Chair Thomas, Ranking Member Troy, and members of the House Ways and Means Committee, thank you for the opportunity to provide testimony today on behalf of the Ohio Association of School Business Officials (OASBO), representing the treasurer/CFOs and other school business professionals who manage the school finances and operations of Ohio's public schools.

My name is Katie Johnson, Executive Director of OASBO. I am joined today by several OASBO members, including Kent Zeman (Lakewood City Schools, Cuyahoga County), Jenni Logan (Sycamore Community Schools, Hamilton County), and Terrah Stacy (Springboro Community City Schools, Warren County).

On behalf of our members, we respectfully oppose House Bill (HB) 335 and ask this committee to carefully consider the bill's proposed changes and their impact on property taxpayers, our school districts, and the students we serve. The interconnectedness of Ohio's property tax system and our school funding system, both enshrined in our Constitution, requires thoughtful and thorough evaluation of any proposal to ensure our tax and school funding systems remain equitable and predictable.

Simply put: HB 335 is the most consequential piece of property tax legislation to affect Ohio's public schools in the past 50 years. The proposed changes would fundamentally alter core components of Ohio's school finance structure, disrupt local governance, and create operational challenges for every school district in the state.

I. Constitutional Concerns with HB 335

House Bill 335 raises significant constitutional questions that merit careful consideration.

a. *Inside Millage and Constitutional Authority*

Article XII, Section 2 of the Ohio Constitution has long been interpreted to require the allocation of 10 mills of unvoted property tax authority to local governments. HB 335 proposes to eliminate this authority for school districts and other political subdivisions through statutory change rather than constitutional amendment.

The historical development of this provision provides important context:

- **1927**: Legislature established 15-mill limitation by statute
- **1931**: Constitutional amendment established 15-mill limitation
- **1933**: Constitutional amendment reduced to 10 mills through public vote[1]
- **2025**: HB 335 proposes statutory elimination

[1] Codified in R.C. § 319.301.

The people of Ohio approved the current 10-mill framework through the constitutional amendment process. Changes of this magnitude typically require the same democratic process used to establish them.

Article XII, Section 2 grants the legislature express authority to pass laws "authorizing additional taxes to be levied outside of such limitation." Under established constitutional interpretation principles, including the negative-implication canon, the express grant of authority for outside millage, without similar language regarding inside millage restrictions, suggests the Ohio Constitution does not grant the General Assembly authority to eliminate inside millage within the 10-mill limitation.

While some may argue the 10-mill limitation implies maximum authority only, the Ohio Supreme Court in *Bennett v. Evatt* (1945) noted that Article XII, Section 2 "does not create an inflexible maximum, but provides instead the limits within which taxing authorities may levy taxes without a vote of the people."[2] This indicates that decisions related to inside millage are vested with the local authorities, and not merely a ceiling.

Attached as **Exhibit E** is a letter from several bond counsel firms outlining the legal and practical implications of eliminating inside millage as proposed in HB 335.

b. Uniform Taxation Requirements

The Ohio Constitution requires that real property be taxed "by uniform rule according to value." HB 335's property tax credit mechanism would create different effective tax rates for identical properties based on district-specific factors including property value growth rates, reappraisal timing variations across counties, and inflation rate calculations. **See Exhibit A for detailed examples showing how identical $200,000 properties would face different effective assessment rates ranging from 29.75% to 35% based solely on location.**

In the *Park Investment* cases (1964-1972), the Ohio Supreme Court established that if "the ratio between sales price and assessed value...differs to any appreciable extent...then property is not being taxed by uniform rule as required by Section 2, Article XII of the Ohio Constitution."[3] HB 335 would create this type of non-uniformity.

c. Equal Protection Analysis

The 2.5% homestead rollback was upheld in *State ex rel. Swetland v. Kinney* (1980) because it had a rational basis, established a reasonable classification (homesteads), and applied the reduction equally to all members of the class.[4]

HB 335 differs by creating a classification that fluctuates as districts approach or rise above the 20-mill floor, providing variable credits depending on reappraisal cycles and district-specific changes, and applying different rates within the class it creates.

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[2] *Bennet v. Evatt*, 145 Ohio St. 587, 596 (1945). Further, R.C. 5705.313, allows counties to "rollback" inside millage, but reserves their ability to reclaim it. Supporting that the decision related to inside millage is vested in local authorities, not the legislature.

[3] *State ex rel. Park Inv. Co. v. Board of Tax Appeals, 175 Ohio St. 410, 412-413 (1964).*

[4] *State ex rel. Swetland v. Kinney*, 1980.

II. Operational Impact: Three-Cycle System Complexity

The constitutional concerns raised by HB 335 are compounded by significant operational challenges. OASBO members, the treasurer/CFOs responsible for managing school district finances, would face difficult choices between legal compliance, fiscal responsibility, and educational quality.

a. Understanding the Three-Cycle System

School districts must simultaneously manage three different calendar cycles that do not align, as detailed in **Exhibit B**:

- **Fiscal Year (July-June)**: When districts operate and spend money
- **Tax Year (January-December)**: When property taxes are assessed
- **Collection Year (Scattered dates)**: When tax money actually arrives

Districts plan taxes 18 months before collection while operating current budgets, requiring treasurers to simultaneously operate one fiscal year, budget for the next, and plan taxes for the year after that.

b. Implementation Timeline Challenges; Impact on Financial Management

HB 335 would disrupt this system during a critical planning period. Districts have already submitted tax budgets for FY26 based on inside millage that HB 335 would eliminate. As shown in **Exhibit B**, this creates operational challenges:

- **January 2025**: Districts planned FY26 based on inside millage HB 335 would eliminate
- **March 2025**: County certifications based on revenue streams that would no longer exist
- **July 2025**: $1.99 billion in revenue would be unavailable
- **October 2025**: Emergency budget revisions would be required

Districts would have committed to spending revenue that HB 335 would eliminate during the planning cycle.

This timeline disruption would require OASBO members to shift their approach:

Area	Current Practice	Under HB 335
Budget Planning	Strategic 18-month forecasting	Reactive planning
Legal Compliance	Accurate five-year forecasts under R.C. §5705.391	Immediate forecast revisions needed
Contract Certification	Reliable revenue projections per R.C. §5705.412	Uncertainty about existing commitments
Community Relations	Predictable levy cycles	More frequent levy requests

III. Financial Impact Analysis

a. *Revenue Loss Scale*

According to Legislative Service Commission analysis and the Ohio Education Policy Institute, eliminating inside millage would remove approximately $1.99 billion in annual revenue from Ohio's public school districts.[5] This represents:

- 8.3% of forecast FY25 operating expenditures statewide
- More than $492 million in suburban districts alone
- Up to 12.9% of operating revenue in Ohio's highest-capacity districts

OEPI estimates that 19,923 full-time teaching positions would need to be eliminated to offset the loss. This is nearly 20% of Ohio's entire traditional public teaching force.

b. *Role of Inside Millage*

Inside millage provides natural inflationary growth to school district revenues without requiring new levies, as it is not subject to the tax reduction factors of HB 920. Its elimination would remove one of the few remaining mechanisms that allow district revenues to grow with property values.

This revenue source has been a foundational element of school funding for over 90 years, enabling districts to sustain essential operations while providing taxpayer stability.

IV. Student and Community Impact

The implications of HB 335 extend far beyond balance sheets; they directly affect the educational experiences and long-term opportunities of Ohio's students. The anticipated loss of nearly 20,000 educators statewide will not fall equally across all services. Due to federal and state requirements governing special education and related services, staffing reductions will almost certainly concentrate in general education and non-report card areas, such as electives, advanced coursework, and student supports.

These are the very programs that prepare our students for college, careers, and civic life. With revenue losses of up to 12.9% in some districts, these cuts would require the permanent elimination of programs communities have built over decades. Cuts in these areas mean:

- Fewer elective options in STEM, arts, and career-technical education;
- Larger class sizes, reducing individualized instruction; and
- Loss of academic intervention services, guidance counseling, and college and career readiness programming.

See **Exhibit C** for the impact on Springboro Community City School, an example of what this legislation would mean for our schools.

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[5] Ohio Education Policy Institute, "Impact of the Proposed Elimination of Inside Millage," June 2025.

In short, the very resources that position students for success after high school will be among the first to go. These losses compromise our collective mission to prepare Ohio's future workforce and diminish the quality of education for the next generation.

In many ways, school districts and communities have shown extraordinary resilience in adapting to legislative changes. But the proposals in HB 335 are not simply burdensome, they may not be possible to overcome. The result will be diminished student opportunities and lasting consequences for the educational and economic health of our state.

Finally, it is important to consider the long-term impact to local communities and taxpayers. As districts are forced to make deep, visible cuts, property values may decline, and the desirability of communities may suffer. This undermines the very goal of tax relief by eroding the value of the asset it seeks to protect.

V. Local Authority and Governance Changes

a. *State-Local Balance; County Budget Commission Authority*

Ohio's funding system depends on a balance between state and local contributions, but local taxpayers already bear 62% of education costs. HB 335 would negatively affect this balance while reducing local control over revenue sources.

HB 335 would expand county budget commission authority to:

- Reduce voter-approved levies when fund balances exceed 30% of expenses;
- Review five-year forecasts and question local fiscal decisions; and
- Modify levy certifications based on administrative determinations.

This would shift decision-making from locally elected boards of education to county officials.

b. *Voter-Approved Levy Changes*

The bill would eliminate emergency and substitute levies while including fixed-sum levies in the 20-mill floor calculation mid-cycle rather than upon expiration. These proposed changes break the covenant between school districts and their communities. Voters approved these levies with a clear understanding of their structure, and mid-term alterations undermine that trust.

c. *Cash Balance Analysis*

The combination of inside millage elimination and the 30% cash balance cap would create financial pressures:

- Seventeen districts would fall into negative cash balance territory;
- Sixty-five districts would drop below 10% reserves; and
- Over 530 districts would fall below 25% reserves (widely accepted best practice).[6]

[6] Ohio Education Policy Institute, "Impact of the Proposed Elimination of Inside Millage," June 2025.

VI. Legal Compliance and Forecasting Requirements

School districts are legally required to submit five-year forecasts under R.C. § 5705.391, projecting both revenues and expenditures. These forecasts serve critical legal functions in addition to planning purposes.

Under R.C. § 5705.412, any contract entered into by a district must be certified based on forecasted funds. If HB 335 is enacted, districts' existing forecasts would become inaccurate, potentially:

- Making current certifications unreliable;
- Creating compliance challenges with fiscal oversight requirements; and
- Raising questions about existing commitments.

Districts would face challenges planning and maintaining compliance when the financial framework changes during planning cycles.

VII. Alternative Approaches and Market Context

a. *Market Conditions Analysis*

The Legislative Budget Office analysis shows property value growth moderating by 2026-2028, with future increases "far below what the state has experienced in recent years."[7] See **Exhibit D** for detailed projections showing this trend.

HB 335 would implement permanent structural changes during the transition from this unusual period of rapid property value growth.

b. *Targeted Relief Options*

Locking in a permanent structural change based on a temporary valuation surge risks unintended, long-term harm to schools, communities, and taxpayers alike.

OASBO recognizes that property tax relief is a legitimate concern and supports approaches that provide assistance while maintaining system stability:

- Targeted, means-tested circuit breaker proposals focused on income-qualified property owners;
- Expansion of homestead exemptions for low-income seniors; and
- Review of tax abatements and incentives that reduce the local tax base without replacement funding.

These approaches provide relief to those most in need while preserving the constitutional and operational framework of local school funding.

[7] Ohio Legislative Service Commission, HB 186 and HB 129 Fiscal Notes, April-May 2025.

We encourage the legislature to pursue relief strategies that:

- Are targeted and means-tested;
- Preserve local decision-making;
- Respect constitutional principles; and
- Maintain stable, predictable funding for Ohio's students.

VIII. Conclusion

House Bill 335 proposes significant changes to Ohio's property tax and school funding systems. While we understand the desire to provide property tax relief, the proposed approach raises constitutional questions, creates operational challenges, and removes essential revenue sources without replacement funding.

For OASBO members responsible for managing these complex systems, HB 335 would create challenging situations between legal compliance, fiscal responsibility, and educational quality when the operational foundation of school finance would be fundamentally altered.

We respectfully urge this committee to reject HB 335 and instead pursue balanced, targeted solutions that offer relief while maintaining constitutional integrity, voter trust, and educational quality.

Ohio's property tax and school funding systems are deeply intertwined and constitutionally grounded. Any reform should be carefully designed to protect what matters most: the future of our students and the public trust of our communities.

On behalf of OASBO's members, thank you for your time and consideration. We are happy to answer any questions.

Exhibit A

House Bill 335 - Understanding the Tax Credit Factor with an Example:

This example illustrates how HB 335's tax credit mechanism would result in identical properties being taxed at different effective rates depending on district location and valuation trends, violating the principle of uniform taxation.

The tax credit factor in HB 335 is calculated for each school district on the 20-mill floor when it undergoes a reappraisal or triennial update. This factor is determined by:

1. Comparing what the district would collect from its 20-mill floor in the current year to what it collected in the previous year;
2. Calculating how much that revenue would increase if limited to the rate of inflation over the preceding three years;
3. Dividing the inflation-limited collections by the collections that would be received under the current 20-mill floor; and
4. Subtracting that result from 1 to get the tax credit factor.

For example, as illustrated in the LSC analysis, if a district would collect $30 million from the 20-mill floor after reappraisal, but the inflation-limited amount is $25.5 million, the tax credit factor would be: 1 - ($25.5 million ÷ $30 million) = 0.15 or 15%

This factor varies by district based on: (1) How much property values increased in that specific district; (2) The rate of inflation during the preceding three years; and (3) When the county conducts its reappraisal (since inflation rates change over time).

To illustrate how this creates non-uniform taxation, consider two properties, each valued at $200,000 and located in different 20-mill floor districts. The current effective tax rate to assess taxes on property in Ohio is 35%. To calculate taxes due before any tax credit:

- Assessed value = $200,000 × 35% = $70,000 for each property
- Taxes due = $70,000 × 0.02 (20 mills) = $1,400 for each property

Applying the HB 335 tax credit mechanism to identical $200,000 properties in different taxing districts:

Scenario	Tax Credit Factor	Tax Credit Amount	Final Tax Bill	Effective Taxed Value	Effective Assessment Rate
Current Law (Any district on 20-mill floor)	0.00	$0	$1,400	$70,000 ($1,400 ÷ 0.02)	**35.00%** ($70,000 ÷ $200,000)
Property 1 under HB 335 (District on 20-mill floor with high value growth)	0.15	$210 ($1,400 × 0.15)	$1,190 ($1,400 - $210)	$59,500 ($1,190 ÷ 0.02)	**29.75%** ($59,500 ÷ $200,000)
Property 2 under HB 335 (District on 20-mill floor with moderate value growth)	0.05	$70 ($1,400 × 0.05)	$1,330 ($1,400 - $70)	$66,500 ($1,330 ÷ 0.02)	**33.25%** ($66,500 ÷ $200,000)
Property 3 under HB 335 (District on 20-mill floor with value growth ≤ inflation)	0.00	$0	$1,400	$70,000 ($1,400 ÷ 0.02)	**35.00%** ($70,000 ÷ $200,000)
Property 4 under HB 335 and Current Law (District ***not*** on 20-mill floor ***with 38 effective mills***)	0.00	$0	$2,660	$70,000 ($2,660 ÷ 0.038)	**35.00%** ($70,000 ÷ $200,000)

As shown by the examples above, this means identical $200,000 properties across Ohio would be effectively assessed at rates ranging from 29.75% (or lower) to 35% of their true value, solely based on which taxing district they happen to be located in and how much property values increased in that district.

Exhibit B

HB 335 - Three-Cycle System - Disruption Analysis

School districts must simultaneously manage three different calendar cycles that don't align:

- Fiscal Year (July-June): When districts operate and spend money
- Tax Year (January-December): When property taxes are assessed
- Collection Year (Scattered dates): When tax money actually arrives

Districts plan taxes 18 months before collection while operating current budgets, requiring treasurers to simultaneously operate one fiscal year, budget for the next, and plan taxes for the year after that.

I. Critical Timeline: How HB 335 Disrupts the January 2025 Planning Cycle

Districts have already committed to spending revenue that HB 335 would eliminate mid-planning cycle.

Date	Normal Operations	HB 335 Disruption
January 2025	Tax budget adoption by board of education for FY26 (18 months ahead)	Districts planned based on inside millage that HB 335 eliminates
March 2025	County certifies estimated resources for FY26	Certification based on revenue streams that no longer exist
July 2025	FY26 begins with temporary budget	$1.99 billion in inside millage revenue disappears
October 2025	Final FY26 budget approval	Emergency budget revisions required

II. Immediate Operational Consequences (2025-2026)

HB 335 transforms school finance from a strategic 18-month planning system into a reactive, year-to-year survival model.

Area	Disruption	Required Response
Budget Planning	FY26 budgets based on eliminated revenue	Emergency budget revisions
Staffing	Payroll commitments with reduced revenue	Potential layoffs/non-renewals
Programs	Services planned with unavailable funding	Program eliminations
Legal Compliance	Five-year forecasts become inaccurate	Potential violations of R.C. §5705.412

Exhibit C

Springboro Community City SD

May FY25 Forecast as Filed with HB335

Current Forecast Annual Difference (Over/Under) Compared to Base Forecast

	State Line Item No	State Line Item No and Description	Amount 2025	2026	2027	2028	2029
Total			$-41,503	$-740,268	$-747,545	$-3,050,687	$-5,086,345
	Property Taxes		$-2	$-740,268	$-747,545	$-3,050,687	$-5,086,345
		1.010 General Property Tax (Real Estate)	$-1	$0	$-19,693	$-2,022,147	$-3,792,852
		1.020 Tangible Personal Property Tax	$-1	$-740,268	$-724,871	$-727,197	$-724,640
		1.050 State Share of Local Property Taxes	$-1	$-0	$-2,981	$-301,343	$-568,853
		11.020 Property Tax - Renewal or Replacement	$0	$0	$0	$0	$0
	Income Taxes		$0	$0	$0	$0	$0
		1.030 Income Tax	$0	$0	$0	$0	$0
		11.010 Income Tax - Renewal	$0	$0	$0	$0	$0
	State Aid		$-41,501	$-0	$0	$-0	$0
		1.035 Unrestricted State Grants-In-Aid	$-31,716	$-0	$0	$-0	$0
		1.040 Restricted State Grants-in-Aid	$-9,785	$0	$-0	$0	$0
	All Other Revenue		$0	$0	$0	$0	$0
		1.045 Restricted Federal Grants-in-Aid - SFSF	$0	$0	$0	$0	$0
		1.060 All Other Revenues	$0	$0	$0	$0	$0
		2.010 Proceeds from Sale of Notes	$0	$0	$0	$0	$0
		2.050 Advances-In	$0	$0	$0	$0	$0
		2.060 All Other Financing Sources	$0	$0	$0	$0	$0
	New Levies		$0	$0	$0	$0	$0
		13.010 Income Tax - New	$0	$0	$0	$0	$0
		13.020 Property Tax - New	$0	$0	$0	$0	$0

Measure	2024	2025	2026	2027	2028	2029
Cumulative	$0	$-41,503	$-781,771	$-1,529,316	$-4,580,003	$-9,666,348

https://docs.google.com/spreadsheets/d/1r3nUIIwAv734VENlH7e-4rnOlSWXu_tpNGYdExIDHsQ/edit?usp=sharing

CURRENT HOMEOWNERS						
home value	450,000					
pay taxes on 35%	157,500					
	mills	effective tax rate	gross taxes	rollback credits	Taxes to School	
Inside Mills	5.31	0.00531	$836.33	$104.54	$731.78	Operating Expenses
Outside Mills	14.69	0.01469	$2,313.68	$289.21	$2,024.47	
Substitute Levy	4.38	0.00438	$689.85	$86.23	$603.62	
Bond Levy	2.80	0.0028	$441.00	$55.13	$385.88	Debt to Build School Facilities
PI Levy	1.31	0.00131	$206.33	$0.00	$206.33	Upkeep of Facilities
Taxes to Schools			$4,487.18	$535.11	**$3,952.07**	
BORO Cost to Educate 1 Student			**$9,732**	**State Average $12,396**		

HOMEOWNERS HB335 PROPOSAL						
home value	450,000					
pay taxes on 35%	157,500					
	mills	effective tax rate	gross taxes	rollback credits	Taxes to School	
Inside Mills	0.00	0	$0.00	$0.00	$0.00	Operating Expenses
Outside Mills	20.00	0.02	$3,150.00	$393.75	$2,756.25	
Substitute Levy	0.00	0	$0.00	$0.00	$0.00	
Bond Levy	2.80	0.0028	$441.00	$55.13	$385.88	Debt to Build School Facilities
PI Levy	1.31	0.00131	$206.33	$0.00	$206.33	Upkeep of Facilities
Taxes to Schools			**$3,797.33**	**$448.88**	**$3,348.45**	
Annual Savings to Taxpayer			$603.62			
Monthly Savings to Taxpayer			**$50.30**			
BORO Cost to Educate 1 Student			**$9,732**	**State Average $12,396**		

The State isn't picking up this loss in Revenue. We would have to come back and ask for these funds back through a new levy. Additionally, there are no rollbacks for new levies after 2013 which means to replace this exact revenue would cost this homeowner $393.75 more because you wouldn't receive the 12.5% rollback credits.

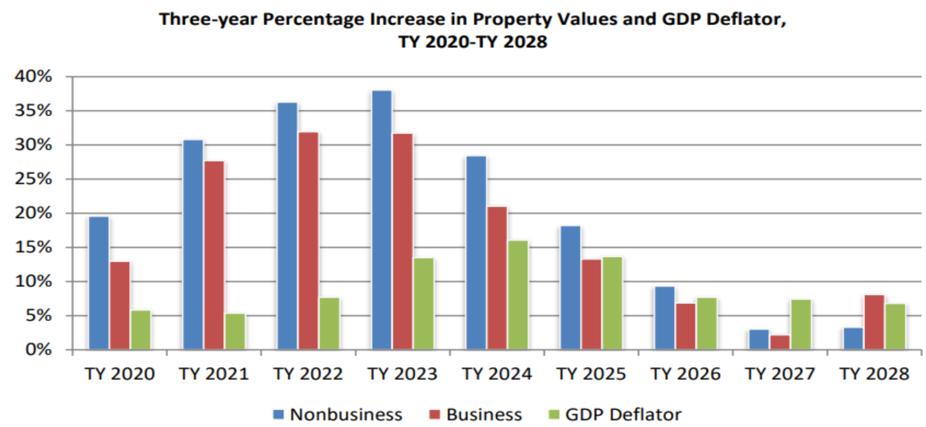
For Springboro,
As the 13th lowest spending district in the State per pupil, with the 9th highest student to teacher ratio of all Ohio districts.
This would cause a nearly $9.7 million dollar reduction in revenue between FY26-FY29.
We would be forced to remove vital programs and services such as;

- Reduced Gifted Services
- Reduce Intervention Services
- Reduce SRO services
- Reduce Resources Officers and mental health supports
- Eliminate Instructional Coach
- Increase PTP Fees
- Increase Class sizes (we would need to reduce 41 positions starting in FY27)

Exhibit D

HB 186, Fiscal Note, page 3 - Included in HB 335:

Office of Research and Drafting LSC Legislative Budget Office



The rate of property value increase in the state far exceeded that of inflation as measured by the GDP deflator from TY 2020 to TY 2024 and are expected to do so by a smaller margin in TY 2025. Projected valuation increases in TY 2026 and onward are much closer to the forecasted inflation measure. LBO would therefore only expect nonbusiness properties that reappraise in TY 2025 or TY 2026 and business properties that reappraise in TY 2028 to receive credits under the bill. Since neither category is projected to have a three-year value increase that outpaces inflation in TY 2027, LBO would not expect any property located in a county subject to reappraisal or triennial update in that year to receive any credits from TY 2027 to TY 2029.

HB 129, Fiscal Note, pages 4-5 - Included in HB 335:

The projected residential and commercial real property values used in calculating the figures in the above table were obtained from an Ohio-specific forecast by Moody's Analytics. The estimated change in assessed values is illustrated in the following chart for Ohio's residential and commercial real property along with the forecasted growth rates through TY 2028. The growth rates reflect the three-year change in property values resulting from an applicable county's reappraisal or triennial update. The rates at which real property values are projected to increase in the future are far below what the state has experienced in recent years. As such, school districts at the 20-mill floor are expected to receive smaller revenue gains from property value increases in upcoming reappraisals and updates. LBO also expects it to be less likely for districts currently above the floor to have their millage reduced to the point where they would reach the floor in the near future.

Office of Research and Drafting LSC Legislative Budget Office

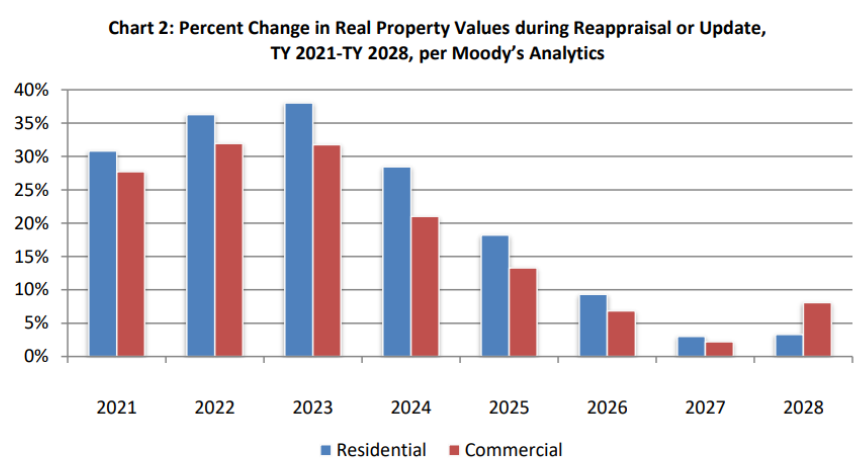


Exhibit E

JOINT RESPONSE TO PROPOSED ELIMINATION OF INSIDE MILLAGE PER H.B. 335
FROM OHIO BOND COUNSEL FIRMS

June 16, 2025

Via Electronic Mail
The Honorable Bill Roemer, Chair
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Re: Impact of the proposed prohibition against the levying and collection of taxes within the ten-mill limitation per House Bill 335, as introduced in the Ohio General Assembly on June 4, 2025, and generally, as such matter may become part of other legislation ("***H.B. 335***")

Dear Chair Roemer and Committee Members:

We are writing to address certain legal issues, as well as other concerns and challenges presented by the proposed prohibition against the levying and collection of taxes within the ten-mill limitation, not the least of which are concerns regarding the constitutionality and legality of such a provision.

Background regarding Inside Millage

Ohio Constitution Article XII, Section 2 prohibits the taxation of property in excess of one percent of its true value without voter approval (the "***Unvoted Tax Limitation***"). Ohio Revised Code (ORC) Section 5705.02 further limits the constitutional standard to ten mills of property tax valuation as it pertains to a particular parcel (the "***Ten-Mill Limitation***" and together with the Unvoted Tax Limitation, the "***Inside Millage***"), and requires that such taxation be "by uniform rule according to value." "Inside Millage" refers to this one percent of assessed value that serves as an unvoted tax limitation, as well as an indirect limit on the amount of unvoted debt that may be incurred, and is allocated among overlapping political subdivisions.

Ohio Constitution Article XII, Section 11, requires a pledge of taxes to secure unvoted general obligation debt[1], and statutes provide that the first use of Inside Millage is to pay debt service[2].

As drafted, H.B. 335 would, among other things, prohibit all political subdivisions, except for townships[3], from levying Inside Millage. The provisions of H.B. 335, particularly the elimination of the Inside Millage, present a number of issues, concerns, and challenges with respect to unvoted general obligation debt of Ohio political subdivisions, as outlined herein.

Issues for Consideration

The undersigned law firms, each of which routinely serve as bond counsel for Ohio political subdivisions, request reconsideration of the elimination of Inside Millage as presented in H.B. 335 for the following reasons:

- **Constitutional and Statutory Prohibitions on Impairment of Contract**: Article II, Section 28 of the Ohio Constitution prohibits the passage of laws that impair contract provisions. In addition, ORC Section 133.25(D) states that laws may not be passed that reduce, rescind or impair responsibilities or covenants affecting "Chapter 133 securities," such as unvoted general obligation bonds. Article XII, Section 11 of the Ohio Constitution requires political subdivisions to levy and collect sufficient taxes in order to pay debt service on bonded indebtedness, such as unvoted general obligation bonds, which is typically accomplished through bond legislation of a political subdivision[4]. This legislation, together with the bonds themselves and other related documentation, represents a contractual relationship between a political subdivision and the holders of the bonds. With respect to unvoted general obligation bonds that are currently outstanding, Article II, Section 28 of the Ohio Constitution and ORC Section 133.25(D) prohibit the elimination of Inside Millage, as it would eliminate the security provided to the holders of those bonds under the bond contract and represent a breach of contract by the political subdivision (see "*Challenges from Bondholders*" below); moreover, the elimination of the security for such unvoted general obligation bonds would immediately put those bonds in technical default. The covenant to levy and collect taxes, inclusive of Inside Millage is a fundamental component of the security expected by the capital markets and investors in bonds of Ohio political subdivisions. Further, the elimination of Inside Millage will remove the most commonly used tool for Ohio political subdivisions in financing necessary public improvements.

- **Enforceability Concerns**: Since Inside Millage has its origins in the Ohio Constitution, the elimination of Inside Millage pursuant to H.B. 335, as a statutory provision, presents enforceability issues. That is, constitutional provisions generally take priority over statutory provisions. Article XII, Section 11 of the Ohio Constitution requires a tax to be levied and

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[1] Article XII, Section 11 of the Ohio Constitution states, "No bonded indebtedness of the state, or any political subdivisions thereof, shall be incurred or renewed unless, in the legislation under which such indebtedness is incurred or renewed, provision is made for levying and collecting annually by taxation an amount sufficient to pay the interest on said bonds, and to provide a sinking fund for their final redemption at maturity." By virtue of the Ohio Constitution and the Ohio Revised Code, Inside Millage is used to satisfy this requirement and has already been pledged to bondholders of billions of dollars of bonds.
[2] See ORC Section 5705.51.
[3] Townships would be permitted to levy only up to the amount of Inside Millage levied in tax year 2024.
[4] See also ORC Section 133.23(C), which states, "[i]f the bonds are general obligations of the subdivision or a property tax is otherwise required to be levied for the purpose, the legislation shall provide for the levying of a property tax sufficient in amount to pay the debt charges on the bonds issued under the legislation…"

collected when unvoted general obligation bonds are issued and thus the elimination of this security raises enforceability concerns in connection with such bonded indebtedness. In addition, certain political subdivisions, namely municipal corporations also have powers derived from the Ohio Constitution, such as home rule powers[5], which when coupled with the ability to levy taxes within the Unvoted Tax Limitation, make the enforceability of H.B. 335, as applied to the elimination of Inside Millage, questionable at best. Closely related to this issue is the question of what would prevent a municipal corporation from exercising its constitutional rights (specifically, a right to levy taxes not in excess of the Unvoted Tax Limitation in combination with home rule powers) to levy and collect 100% of Inside Millage (or perhaps more precisely, 100% of the Unvoted Tax Limitation).

- **What Happens to Outstanding Unvoted General Obligation Bonds?**: Without Inside Millage, what happens to currently outstanding unvoted general obligation bonds? Such bonds when validly issued, are contractually enforceable (typically through a bond purchase agreement), and suddenly the pledged Inside Millage security would be eliminated by virtue of H.B. 335. There is no substitute security for Inside Millage. While different sources of funds may be utilized to support the repayment of bonds (such as sales taxes for counties and income taxes for municipal corporations), the elimination of Inside Millage not only necessarily impairs the very nature of unvoted general obligation bonds, but results in an immediate technical default because the security for such bonds has been eliminated. In issuing unvoted general obligation bonds, a political subdivision has promised its full faith, credit and taxing power (in practical terms, its Inside Millage) to repay such bonds, and with H.B. 335, that pledge is no longer available, thus placing such bonds in immediate default. This is a fundamental change in security without a substitute source of repayment. This would force Ohio political subdivisions to either (a) pay off outstanding unvoted general obligation bonds, which raises the question of what funds would be used to do so or (b) refund outstanding unvoted general obligation bonds with voted general obligation bonds or bonds secured by another lawful revenue stream, neither of which may be an option for some political subdivisions. Any such efforts take significant amounts of time to accomplish and could not immediately cure the default, nor can they be accomplished unilaterally by political subdivisions, but would require all or some combination of redeeming bonds, issuing new bonds, identifying and engaging underwriters or purchasers, obtaining new credit ratings, and/or marketing and sales efforts, all of which would result in increased costs to taxpayers. In addition, any alternate statutory issuing authority will likely require a close examination and recalibration of permissible debt limits.

- **Challenges from Bondholders**: The elimination of Inside Millage will almost certainly be challenged by bondholders (and bond insurers and/or others deemed to have standing) as a breach of the existing contractual covenants and security made by political subdivisions that have issued unvoted general obligation bonds and holders of certificates of participation. These challenges will be based upon a number of Ohio Constitutional provisions and Ohio Revised Code provisions (as referenced within this correspondence), as well as legislative and contractual covenants within the bond documents.

- **Transition Period**: Even if the elimination of Inside Millage is limited to future unvoted general obligation bonds (which type of bond may not even exist if Inside Millage is eliminated), arguably, it will not be possible to eliminate Inside Millage as it applies to currently outstanding unvoted general obligation bonds. Thus, consideration would need to be

[5] See generally, Article XVIII, Ohio Constitution.

given to a "transition period" that would need to last until all outstanding unvoted general obligation bonds in Ohio are paid off or such bonds mature, which, easily, could be 50 years, as permitted for some types of public improvements pursuant to ORC Section 133.20.

- **Weakening of Unvoted General Obligation Bonds; Risk of Defaults**: Unvoted general obligation bonds in Ohio are secured by a pledge of the "full faith, credit and taxing power" of a political subdivision, which primarily consists of a pledge of its Inside Millage. Without Inside Millage, political subdivisions could no longer effectively issue unvoted general obligation bonds. Additionally, to ensure that bondholders are paid, ORC Sections 5705.31 and 5705.312 require political subdivisions in Ohio to reprioritize the use of Inside Millage toward debt service if there is non-payment on unvoted general obligation bonds and notes. The elimination of Inside Millage as security for unvoted general obligation bonds would therefore weaken, if not effectively eliminate, one of Ohio's most frequently used and market-accepted forms of debt. In addition, the inability to reprioritize the use of Inside Millage to cover any shortfalls in debt service may lead to an increase in bond defaults or the likelihood of bond defaults. As a result, the financing of critical public improvements by political subdivisions would be severely impacted by the proposed legislation as investors are likely to lose confidence in Ohio unvoted general obligation bonds.

- **Certificates of Participation (COPs)**: There are many school districts throughout Ohio who utilize Inside Millage (or a portion thereof) as the primary source of payment for COPs (an appropriation-based type of lease not subject to debt limitations). The elimination of Inside Millage will strain general fund budgets, causing cuts to essential curriculum and/or services and/or lead to payment and non-payment defaults on COPs. Similarly, investors will lose confidence in COPs and similar lease-purchase obligations.

- **Rating Agency Considerations and the Cost of Capital to Taxpayers**: Many political subdivisions have different credit ratings, depending on the strength of a particular form of security. Credit rating agencies (such as Moody's and S&P) typically view a political subdivision's unvoted and voted general obligation bonds as the strongest type of security, which type of security will receive the strongest relative rating (often referred to as an issuer's "underlying credit rating"). A political subdivision's full faith and credit pledge, which consists primarily of Inside Millage, is the foundation of its underlying credit rating from credit rating agencies. In Ohio, usually, there is no distinction between a political subdivision's unvoted underlying credit rating and its voted underlying credit rating (these credit ratings are usually one in the same). However, with the elimination of Inside Millage, it is likely that rating agencies will distinguish between unvoted and voted general obligation bonds. Political subdivisions will be confronted with rating downgrades as a result of the elimination of Inside Millage, thus increasing future borrowing costs (all else being equal, higher credit ratings generally lead to lower borrowing costs). The cost of replacement debt will be higher. That is, alternate forms of security (such as sales tax or income tax) are often viewed as weaker forms of security, causing replacement debt to be more expensive, which will ultimately cost taxpayers more in debt service.

- **Maintenance Tax Considerations for Co-Funded School Construction Projects**: When school districts enter into project agreements with the Ohio Facilities Construction Commission (OFCC) for certain types of co-funded school construction projects, school districts are required by the Ohio Revised Code to commit to a 23-year half-mill maintenance tax or equivalent for purposes of maintaining co-funded classroom facilities. According to the Ohio Association of School Business Officials, 122 school districts in Ohio have reallocated Inside

Millage for permanent improvement uses, which Inside Millage, in many cases, is used to finance a school district's 23-year maintenance tax commitment. Without Inside Millage, school districts may be in default of their agreements with OFCC because they are not able to fulfill the statutorily mandated half-mill maintenance tax requirement.

- **Disruption of Tax Incentive Agreements; Revenue Bond Defaults**: For those political subdivisions who enter into tax incentive agreements utilizing Ohio's tax incentives for economic development, such as tax increment financing (TIF) and community reinvestment areas (CRA) to name a couple of such tax incentives, the elimination of Inside Millage will reduce the overall tax base upon which these transactions were structured. Inevitably, the expected revenues supporting revenue bonds that fund Ohio's critical infrastructure projects will fall short of expectations, as Inside Millage is typically an important part of the tax base. Since many, if not most, of these transactions operate on very thin margins, bond defaults are likely, which will impact the sustainability of existing and future public infrastructure projects, and indirectly weaken Ohio tax incentives for economic development.

These are just a few of the issues, concerns, and challenges that are likely to result from the proposed elimination of Inside Millage. The elimination of Inside Millage is not the same as eradicating "siloed" provisions in the Ohio Revised Code that are limited in scope. Inside Millage is the chief source of security for a significant part of Ohio's capital infrastructure. The sudden elimination of Inside Millage will have far-reaching unforeseen and unintended consequences, most of which will have a severely negative impact on Ohio political subdivisions, and Ohio taxpayers.

The undersigned firms appreciate the opportunity to present this broad summary of some of the unintended consequences that are likely to accompany the elimination of Inside Millage. Each firm is ready to discuss these matters in greater detail and to work with the General Assembly to provide solutions that, while accomplishing the desired policy goals of the General Assembly, ultimately maintain the integrity of Ohio capital markets as it pertains to providing critical financing mechanisms for various public improvements, for the benefit of Ohio taxpayers.

Very truly yours,

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