

**American Express Testimony in Support of Senate Bill 874**  
**February 17, 2009**

Chairman Duff, Chairman Barry and members of the Banks Committee:

My name is Joe Testa. As Vice President of State Government Affairs for American Express, I am here to support passage of Senate Bill 874, to revise the definition of “gift certificate” in Connecticut statutes by creating an exception for “open-system” gift cards. American Express believes that passing SB 874 will permit well-informed Connecticut residents to compare gift cards side-by-side and choose the gift card that best meets their needs.

Connecticut law currently treats all gift cards the same. In this regard, Connecticut stands apart from the vast majority of other states with laws that recognize the distinction between “closed-system” and “open-system” gift cards.

And the distinction is significant. “Closed-system” gift cards are issued by retailers and are redeemable only for merchandise offered by the issuing retailer. They are, in essence, an advance purchase of merchandise. Buy a \$25 gift card from Starbucks, and Starbucks counts on that gift card being redeemed for \$25 worth of its coffee.

In contrast, an “open-system” gift card provides the consumer with purchasing power. Buy a \$25 American Express<sup>®</sup> Gift Card, and use it to buy \$25 of goods or services at US merchants that accept American Express. But unlike the Starbucks example, American Express does not earn \$25 of revenue. Rather, we provide our customers with a financial service – the option to redeem their Gift Card for almost anything, from latest fashions to a day at the spa – at retailers across Connecticut and throughout the United States.

Consumers have taken to the American Express Gift Card. They love to give it, and they love to receive it. We introduced the American Express Gift Card in 2002, and it has become the number one selling “open-system” gift card around. Because of their popularity, we’ve made our Gift Cards available for purchase at tens of thousands of locations nationwide, and we are adding thousands of new locations annually – supermarket and drug store chains, shopping centers, banks, online and at American Express Travel Service offices.

We’re also enhancing the experience of giving and receiving an American Express Gift Card with special offers and exclusive discounts. Just redeem a Gift Card at one of our participating merchant partners and receive more than the face amount of the Card. For example, get 5% off your online order at Barnes & Noble dot com, free shipping from the Apple Computer Store, or a complimentary dessert when you buy pizza at Papa John’s.

American Express has been issuing prepaid products for over 100 years. Our 117-year old American Express Travelers Cheque is the preeminent brand welcomed worldwide. When the Company decided to issue other prepaid products, such as the American Express Gift Card, we knew our customers would expect a product that would meet American Express’ standards of

quality and customer service. We take great pride in having delivered such a product, and we aspire to make further improvements to our Gift Card in the future.

American Express is in business to serve our customers, but also our shareholders and employees. And our Gift Card business is losing money in Connecticut – where existing law prevents us from charging modest after-purchase fees that we count on to cover the significant operating costs of issuing an “open system” gift card, including costs associated with marketing, distribution, customer service, risk management, licensing and compliance.

The vast majority of states that have legislated in this area recognize that without modest fees, issuers of “open-system” gift cards cannot bring a successful product to market – including Massachusetts and Rhode Island, which amended their laws in 2008 to allow post-sale fees. In the few states that today have restrictive gift card laws, including Connecticut, New Hampshire, Rhode Island and Vermont, American Express has had to limit the availability of our gift cards by suspending online and telephone sales and freezing new distribution locations.

Here in Connecticut, current law limits how gift card issuers can compete against one another in the marketplace. Moreover, due to recent decisions by the United States Court of Appeals for the First Circuit affording federal preemption to nationally-chartered banks, current law provides an un-level playing field for state-chartered banks and other Connecticut-licensed entities that want to issue “open-system” gift cards. The result is that current law affords a competitive advantage to certain gift card issuers over others, including some issuers that presently charge post-sale fees to Connecticut consumers.

The General Assembly can remedy this inequity by doing what substantially all other states have done – exempt “open-system” gift cards from existing law.

You can take this step without compromising your commitment to consumer protection, which we wholeheartedly support. As with our other products, American Express provides full and fair disclosure of material terms and conditions to purchasers and recipients of our gift cards. American Express is in favor of consumer choice and we recognize that real choice is only possible where consumers can make informed decisions about the products they want to buy.

Customers trust and rely on American Express to treat them fairly. The longevity of our business depends on our ability to maintain that reputation, and that’s true across all of our products, including the American Express Gift Card.

By enacting SB 874, the General Assembly will promote a competitive environment where well-informed consumers can compare gift cards side-by-side and choose from a variety of products with a range of fee structures and redemption options. This freedom to choose will empower consumers to select the gift card that best meets their needs and want to use.

Thank you for considering this testimony.