



FINANCE COMMITTEE TESTIMONY
COMMISSIONER KEVIN SULLIVAN
DEPARTMENT OF REVENUE SERVICES
MARCH 22, 2016

Chairman Fonfara, Chairman Berger, Senator Frantz, Representative Davis and members of the Committee, thank you for this opportunity to comment on the proposals before you in today's public hearing.

Let me begin by apologizing to you for the erroneous information provided to other than single-filers with respect to changes in the calculation of income tax property tax credits. The number of affected taxpayers and the amount for any one taxpayer are relatively small while the action we are taking will avoid any significant impact on the current budget. But a mistake is a mistake and it's my job as Commissioner to take responsibility for it.

Since becoming Commissioner of Revenue Services, I have appreciated the close working relationship between the agency and this committee. This, therefore, is one of those rare occasions where we have to share some very strong concerns about raised committee legislation – specifically some provisions of **HB 5636**.

DRS shares your interest in sales tax compliance. Indeed, the Finance Committee has supported several of our initiatives that have significantly increased collections and reduced non-compliance but added no burden on taxpayers who already do the right thing. We are always open to your proposals that focus on deficient taxpayers and non-filers.

As in the past, **Section 4** of **HB 5636** is a solution in search of a problem or at least it's the wrong solution. This sales tax collection scheme, while certainly a great business opportunity for those who will make money off it, is very much the same thing the Finance Committee directed us to evaluate in our 2014 report to you. With all due respect, we demonstrated that it did not make sense then and nothing has changed. It has been rejected by every state where it has been considered. It has been dismissed by the National Conference of State Legislatures (NCSL).

Unfortunately, what this proposal will do is add significant cost to credit card processors, retailers and – ultimately -- taxpayers. It will also add significant costs at DRS. *Those who will overwhelmingly bear this cost in added fees and expenses are retailers who already meet their state sales tax obligations in full and on time.* Those who get off free, retailers not receiving credit card payments, will continue to be the primary source of sales tax non-compliance.

But I am not here to just say “no.” If this is about reducing the sales tax gap, let’s focus on that and let’s do it as simply as possible. Today, there are a growing number of third party certified sales tax processors who can handle all aspects of calculation, collection and remittance of sales taxes by retailers in any and all states. Why not require that retailers with some significant level of actual sales tax deficiency choose among and contract with a one of these tax processors, as certified by DRS? Yes, there will be a cost but a cost not borne by taxpayers who have done no wrong. Yes, it won’t be as profitable for whoever owns the magic “algorithm” in HB 5636, but I’m sure that’s not the point.

Ironically, the second major concern in HB 5636 is the big tax break it would give to at least one major out-of-state retailer now litigating Connecticut’s efforts to enforce existing state law on this very issue. The result with will be a loss of taxes already due and another big hole in the state budget.

You will likely hear that Section 3 is just a matter of fairness. It is not. When retailers use credit cards, including their own “private label” cards like Home Depot or Walmart, the retailer is charged a fee. None of this in any way affects the retailer’s compensation for the actual sale. Even if the credit transaction goes bad, the retailer is paid in full for its price plus tax.

Connecticut’s bad debt credit was enacted in 1984 to help small businesses that sell items on credit to customers who ultimately never pay their bills. The small business got a credit for the sales tax it paid to the state on the sale to ensure that the business wasn’t out the sales tax as well as the cost of the items it sold. HB 5636 turns this small business credit on its head by creating a loophole and tax windfall for big retailers. Specifically, Section 3 would have the state eat the cost of bad debt incurred by the banks that administer private label credit cards subject to all the usual commercial risks and benefits.

HB 5636 will only benefit big, mostly out-of-state retailers. Worse still, as drafted, the retailer would derive its tax break from some portion of all its private label credit card sales that go bad -- not just those that are based on Connecticut sales that are uncollectable by the bank. Note again, in no case is the retailer on the hook because it’s already been paid in full. There is simply no good reason to provide big out-of-state retailers with this tax break.

With that, I welcome any questions.