

**TESTIMONY OF FRANK G. JULIAN
IN SUPPORT OF SALES TAX BAD DEBT PROVISIONS AND IN OPPOSITION TO
DAILY SALES TAX REMITTANCE PROVISIONS IN H.B. 5636**

Good morning Senator Fonfara, Representative Berger, Senator Frantz, Representative Davis and members of the Finance, Revenue and Bonding Committee.

My name is Frank Julian. I am Vice President of Government, Legal and Public Affairs at Macy's, Inc. Macy's proudly employs 2,700 people in Connecticut. We operate 11 Macy's stores in the state as well as a large distribution center in Cheshire.

I am here today on behalf of the Connecticut Retail Merchants Association and its members across the state to speak in support of the sales tax bad debt provisions contained in Section 3 of H.B. 5636, and to speak in opposition to the sales tax remittance provisions contained in Section 4 of the bill.

The sales tax bad debt provision would cure an inequity that currently exists in Connecticut's tax laws.

The sales tax in Connecticut is imposed on the customer. The retailer is responsible for collecting this tax from the customer and remitting it to the State. When a customer makes a purchase using a credit card, the retailer must advance the tax to the State when the purchase is made, even though the customer is not paying their bill to the retailer until some later point in time.

Under existing Connecticut law, if the customer fails to pay the bill on their retail credit card, the retailer can obtain a credit of the sales tax that it advanced to the State on the customer's behalf. This law has been on the books for decades, and recognizes that the ultimate liability for the sales tax rests with the customer. If the retailer were not able to obtain a credit of the tax it advanced when the customer defaults, the ultimate liability for the tax would improperly be shifted to the retailer, in effect making the retailer the guarantor of the public fisc.

When the current law was enacted many years ago, retailers owned their own credit cards, and the law worked well for the manner in which business was conducted back then. However, methods of conducting business have changed. Very few of the major retailers carry their own credit any more. They have found it more efficient to engage a private label credit card company to own and manage their credit card programs.

Although the manner of doing business has changed, the tax law in Connecticut has not kept up with these changes. While retailers that own their own accounts are still entitled to claim a sales tax bad debt credit in Connecticut, retailers that have engaged a private label credit card company cannot obtain a credit of the tax. Likewise, the private label credit card company cannot recover the tax. Thus, in these situations, while the customer has still not paid their sales tax liability, the State is nonetheless retaining the money. This amounts to an unjust windfall for the State at the expense of the retailer and the private label credit card company.

H.B. 5636 would cure this inequity, and modernize Connecticut's tax laws, by permitting the retailer to obtain a credit of the sales tax when the customer fails to pay their bill. California, Florida, Illinois, Michigan, Pennsylvania, Texas and Wisconsin have enacted similar laws, and legislation is pending in other states.

Under H.B. 5636, the retailer in a private label credit card arrangement would be entitled to claim the tax credit in the same manner as retailers that own their own credit cards can today. The retailer would have the obligation to substantiate the amount of its claims when audited by the Department of Revenue Services, as is the case under current law. Similarly, if either party subsequently recovered part or all of the bad debt, the retailer would have an obligation to repay the recovered sales tax to the State, as is also the case under current law.

This bill will only apply to private label credit cards. These are cards that bear the name of a particular retailer, and the tax credit or refund is only available for purchases made at that specific retailer and its affiliates.

Section 3 of H.B. 5636 would modernize Connecticut's tax laws, and cure an inequity that now exists in Connecticut law.

While we strongly support Section 3 of the bill, we must oppose Section 4 of the bill.

Section 4 would require every retailer to establish, at its own cost, a trust fund for sales taxes. The retailer would be required to deposit sales taxes into this trust fund on a daily basis. Moreover, the amount required to be deposited would only be an estimate of the actual liability, thus requiring a "true up"—presumably on a monthly basis.

This proposal would needlessly impose significant expense and administrative burdens on the state's retailers and on the Department of Revenue Services, with no apparent benefit.

Retailers currently remit sales tax on a monthly basis. The vast majority of retailers remit 100% of the sales tax they owe on a timely basis. There currently are laws in place to adequately deal with the few instances where retailers fail to timely remit the tax they owe.

The proposal contained in Section 4 of the bill is a "solution in search of a problem." Implementing such a proposal would be counter to principles of sound tax policy. For these reasons, we strongly encourage the Committee to strike Section 4 from the bill.

I appreciate the opportunity to testify before you today, and I am happy to answer your questions.