TESTIMONY OF FRANK G. JULIAN
IN SUPPORT OF H.B. 104

Good morning Chairman Dever, Vice Chairman Sprague, Ranking Member Smith, and members of the committee.

My name is Frank Julian. I am Vice President of Government, Legal and Public Affairs at Macy's, Inc. Macy's proudly employs more than 8,000 people in Ohio. Our corporate headquarters is in Cincinnati, our credit and customer service division is headquartered in Mason, and we operate 30 Macy's stores and one Bluemercury store across the state.

I am here today on behalf of the Ohio Council of Retail Merchants and its members throughout the state to speak in support of H.B. 104, which would provide a mechanism for overpaid sales tax to be returned to the retailer that remitted the tax.

The sales tax in Ohio 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 Ohio law, if the customer fails to pay their bill on a retail credit card, the retailer can obtain a credit or refund 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 refund or 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, virtually all 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 over the years. 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 Ohio 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 or refund in Ohio, retailers that have engaged a private label credit card company cannot obtain a credit or refund 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.

House Bill 104 would cure this inequity, and modernize Ohio's tax laws, by permitting the retailer to obtain a credit or refund of the sales tax when the customer fails to pay their bill. California, Florida, Illinois, Michigan, Pennsylvania, Texas and Wisconsin have similar laws in place.

Under this bill, the rules for substantiating the amount of the credit would be the same as under current law for retailer-owned accounts. Similarly, if the retailer or the private label credit card company 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 would 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.

Based on data from independent sources such as the Nilson Report and Fitch Reports, the estimated fiscal impact of this legislation would be between \$6.4 million and \$7.7 million per year to the state, and between \$1.5 million and \$1.9 million for local governments. I have attached an analysis of this calculation.

House Bill 104 would modernize Ohio's tax laws, and cure an inequity that now exists in Ohio law. I appreciate the opportunity to testify before you today, and I am happy to answer your questions.

November 7, 2016

Ohio Bad Debt Fiscal Note Estimates

	Amount		High	Medium	Low
PLCC Receivables*	$107,171,400,000				
Less Finance Charges	($32,151,420,000)	30.0%			
Net PLCC Receivables	$75,019,980,000				
Gross Charge Off Rate**			6.31%	6.31%	6.31%
Recovery Rate***			10.0%	17.5%	25.0%
Net Charge Off Rate			5.68%	5.21%	4.73%
Charge Off Amounts (Based on Net PLCC Receivables)			$4,260,384,664	$3,905,352,609	$3,550,320,554
Ohio Population Percentage****		3.74%			
Ohio Net PLCC Charge Off's			$159,192,405	$145,926,371	$132,660,337
Taxable Base (includes sales tax)		90.0%	$143,273,164	$131,333,734	$119,394,304
Average Sales Tax Rate*****		7.14%			
Estimated Fiscal Impact (i.e., Tax Included in Taxable Base)			**$9,547,978**	**$8,752,313**	**$7,956,649**
State Portion of Fiscal Impact			$7,689,198	$7,048,432	$6,407,665
Local Portion of Fiscal Impact			$1,858,780	$1,703,882	$1,548,983

* 2015 data based on May 2016 Nilson Report. "Synchrony Financial, Citi, Alliance Data, Wells Fargo, Capital One and TD own receivables generated by credit cards they issue on behalf of clients whose name appears on the cards, which can only be used at outlets owned or controlled by the client. Excluded are Visa, Master Card and American Express cards from these issuers….For cards that have two separate lines of credit (both store and general purpose), only the volume from the private label store line of credit is included."

** Fitch Report 8/31/16

*** Fitch Report 6/26/15

**** Based on 2010 U.S. Census

***** Tax Foundation 2016 data