

Senate Finance Committee
Proponent Testimony HB 353
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Chairman Oelslager, Vice Chair Manning, Ranking Member Skindell, and Members of the Finance Committee, good afternoon. I would like to thank you for affording me the opportunity to testify on behalf of House Bill 353. But first, please allow me to tell you about Sutton Bank and why I am before you today.

Sutton Bank is a \$500 million privately held community bank located in Attica (Seneca County, Senator Burke's District) founded in 1878. We have seven additional offices located in the counties of Ashland, Huron, Richland, and Seneca. We are the typical community bank in those markets. It is fair to say we understand what it takes and what it means to serve our communities as a community bank. But today, it is also important to have a niche. A number of years ago, we began to examine why the big box stores desired to obtain a bank charter. Simply put, they wanted direct access to the payments system (or the movement of transactional funds) as they saw value. Our management team built a business plan to take advantage of what others sought. One of the strategies we utilize is through the issuance of prepaid cards. This line of business is open to all types of Ohio charters, banks and credit unions alike.

Sutton Bank currently maintains a competitive and robust prepaid card program. We focus primarily on Business-to-Business, General Purpose Reloadable, and Payroll Cards through various relationships with processors and businesses referred to as aggregators/program managers across the country. Diversification within any business is important and

prudent. One product Ohio financial institutions cannot competitively offer is that of an open-loop gift card. This is a \$20 Billion a year program¹ and the vast number of cards issued are done so by institutions located in states where open-loop gift cards are not subject to escheatment as they are in Ohio. Ohio unclaimed funds or escheatment laws apply to open-loop gift cards and require an Ohio based institution, whether federally or state chartered, to remit unused funds accessible by open-loop gift cards to the State of Ohio after 5 years of continuous inactivity. To differentiate between an open-loop and a closed-loop card you need look no further than where the card is accepted. An open-loop card is accepted at virtually any Point-Of-Sale location and will be branded by Visa, MasterCard, Discover, or American Express. A closed-loop card is one that has limited acceptance because it is tied to a particular business, for instance Starbuck's. Closed-loop cards are currently exempt from the unclaimed funds law in Ohio, while open-loop cards are not.

Aggregators/program managers, seeking to partner with a financial institution to offer open-loop gift cards evaluate state unclaimed or escheatment laws, federal laws regulating the institution, the institutions capability, flexibility, and its technology. Aggregators/program managers will not partner with an Ohio institution because of Ohio's escheatment laws on open-loop cards. They choose instead to deliver the economic benefits of their product to institutions subject to the laws of a state like South Dakota² that does not require institutions to remit unused open-loop gift card funds to the state. This fact continues to be shared with us when we attempt to attract open-loop gift card programs. We, and any other Ohio chartered institution, could form a separate

¹14th Annual U.S. Open Loop Prepaid Cards Market Forecasts 2017-2020 by The Mercator Advisory Group.

² The state's escheat provisions do not apply to an open-loop prepaid card for which the underlying funds do not expire and the records of the depository institution do not disclose the identity of the owner. *S.D. Codified Laws Ann. § 43-41B-40.*

banking entity in South Dakota to conduct open-loop gift card business but we would prefer to do business in Ohio.

What Passing the Bill does....

Passage of H.B. 353 is about the opportunity for all Ohio chartered financial institutions to create jobs in Ohio as opposed to creating an entity in States such as South Dakota to conduct this line of business. Jobs are needed in Ohio, especially rural Ohio. I reference a Wall Street Journal article dated May 26, 2017 titled “Rural America is the New Inner City” which is about Kenton, Ohio where jobs have left the community and what has since happened. Job creation can be done without tax abatements or capital investments in infrastructure.

Passage of H.B. 353 would amend Section 169.01 of the Ohio Revised Code making it competitive with the governing statues of other States as it relates to exempting open-loop gift, rewards, and incentive cards from the escheatment laws of the State of Ohio.

Passage of H.B. 353 would provide parity with closed-loop gift cards which are currently exempt from escheatment under 169.01 of the Ohio Revised Code.

H.B 353 is supported by the Community Bankers Association of Ohio, Ohio Bankers League, and the Ohio Credit Union League.

H.B. 353 has been reviewed by the Department of Commerce. The Department recommended a change in the language to the Bill initially proposed by Representative Reineke. That language was subsequently incorporated.

What H.B. 353 does not...

Passage of H.B. 353 does not impact consumers. Open-loop programs have been around for years. The terms and conditions under which programs operate will not be changed simply because the cards might be issued by a financial institution domiciled in Ohio. Financial institutions will always be liable for any residual balance left on the card subject to the terms and conditions accepted by the consumer at the time of purchase. This means it is easier for a consumer to seek residual card funds through the financial institution than going through the Unclaimed Funds Trust department.

Passage of H.B. 353 does not impact the State of Ohio Unclaimed Funds Trust Fund. According to the Ohio Legislative Service Commission “the amount of unclaimed funds attributable to prepaid cards and rewards cards exempted under the Bill is unknown, but probably represents a small share of the total reported”. I submit to you the amount is unknown as the amount is small due to the uncompetitive posture of the current version of Section 169.01 of the Ohio Revised Code. The large open-loop programs have not been issued by financial institutions located in Ohio.

In Closing....

H.B. 353 was introduced by Representative Reineke on September 20, 2107 moving through Committee without any nay votes. It passed the House January 17, 2018 by a vote of 96-0, and is now before you for your thoughtful consideration. I respectfully ask for your support for this noncontroversial Bill as it provides the opportunity to create jobs in

Ohio, provides parity with closed-loop cards, provides for the opportunity for additional taxation to the State of Ohio through the Financial Institution Tax due to future profits generated, provides the opportunity for additional taxation due to income tax from the jobs created, it does not impact the consumer, and there is no identifiable impact upon the Unclaimed Funds Trust Fund.

Finally, mid-year 2017 it was brought to my attention by a consultant Sutton Bank utilizes for our prepaid card initiatives that the Ohio Department of Commerce attended a conference in Copenhagen in an effort to attract business into Ohio using the tag line of “Innovate in Ohio”. Senators, you have before you a representative of a progressive Ohio chartered financial institution speaking on behalf of something positive for our entire industry attempting to be innovative in Ohio, but our hands are tied. Won’t you please help improve the competitive position of Ohio with this simple change to the Ohio Revised Code?

Again, thank you for allowing me the opportunity to offer proponent testimony on this bill. I would be glad to take your questions at this time.