



Airlines for America®

We Connect the World

March 10, 2025

The Honorable Julie McCluskie, Speaker of the House
The Honorable William Lindstedt, Chair
The Honorable Brianna Titone, Vice Chair
House Finance Committee
200 E Colfax Avenue
Denver, CO 80203

Dear Speaker McCluskie, Chair Lindstedt and Vice Chair Titone:

Airlines for America (A4A)¹ is the principal trade and service organization of the U.S. airline industry. U.S. airlines employ thousands of people who live and work in Colorado, and we are proud of the investments we are making across the state. We also know that Colorado residents love to travel, and the miles that customers earn with their credit cards facilitate family vacations, visits to loved ones and weekend getaways. These rewards programs also bring thousands of visitors to Colorado and are a critical part of the tourism sector. In fact, close to 768,000 domestic passengers used miles from airline co-branded credit cards to visit the state of Colorado in 2023, driving \$618 million in visitor spending and \$48.2 million in state and local tax revenue. HB25-1282 introduces unnecessary risks to these important sources of value and economic contribution across the state's economy.

On behalf of A4A and our member carriers, we oppose any mention in the bill that would require a separation of nearly every electronic payment transaction into multiple parts. Further, we believe that it will require the creation of new customer purchase databases that would threaten customer privacy. These new requirements are being mandated on the electronic payment network, with no compensation.

These new requirements put consumer benefits such as airline miles, cash back and travel points at risk. Residents of Colorado enjoy their credit card benefits. These cards rely on a system that operates on standardization with mere milliseconds to process transactions. Customers and merchants benefit from a fast, safe and secure payment system that promotes customer choice and reliably speeds payments to sellers. We understand and appreciate that there are a number of significant challenges before the legislature, and we respectfully ask that the legislature leave undisturbed a system that works and with which consumers are happy.

We respectfully ask you to reject the proposal forcing electronic payments into multiple transactions.

Sincerely,

Sean Williams
Vice President, State & Local Government Affairs

¹ The members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.



**TESTIMONY OF BRENNAN DUCKETT
DIRECTOR, TECHNOLOGY & INNOVATION POLICY,
NATIONAL RESTAURANT ASSOCIATION
BEFORE THE COLORADO HOUSE FINANCE COMMITTEE
MARCH 13, 2025**

Thank you for the opportunity to testify on the *Swipe Fee Fairness and Consumer Safeguards Act* (HB25-1282). This legislation would help to curb anticompetitive practices that are pervasive throughout the U.S. payments ecosystem and are perpetrated by the Visa-Mastercard duopoly. The bill would also provide small business owners and consumers in Colorado with much-needed relief from exorbitant swipe fees and ultimately promote greater competition and transparency within the credit card market.

I am testifying today on behalf of the National Restaurant Association. Founded in 1919, the National Restaurant Association (“the Association”) is the leading business association for the restaurant industry, which comprises more than 1 million restaurant and foodservice outlets and a workforce of 15.7 million employees. Together with 52 State Associations, we are a network of professional organizations dedicated to serving every restaurant through advocacy, education, and food safety.

The U.S. Payments Ecosystem is Broken

Today, there are no federal laws or regulations that govern the cost of credit card transactions within the U.S. payments ecosystem. These conditions have created a power vacuum enabling two companies, Visa and Mastercard, to control over 80% of the credit card marketplace. As a result, U.S. merchants pay the highest interchange fees (also referred to as “swipe fees”) in the industrialized world, typically ranging from 2-4% per transaction. These rates become particularly alarming when compared to places like Europe, Australia, and Canada, where credit card fees have been capped at 0.3%, 0.8%, and 0.95% respectively.

This comparison begs the question: why are credit card swipe fees so much higher in the U.S. than almost anywhere else in the world? It is simply because the Visa/Mastercard duopoly has remained unchecked for over two decades, resulting in a broken market that enables their anticompetitive and price-fixing practices to thrive. This ultimately inflates the costs of menu items and other goods and services in a way that leaves consumers and business owners holding the bag.

The way it works is that the two dominant card brands dictate interchange fee rates through “fee schedules” that are adopted by hundreds of banks that issue their cards. Every time a customer swipes a credit card, the businessowner accepting the payment must pay the interchange fee to

the bank that issued the credit card. But rather than competing to offer the lowest fees and therefore hold down costs for businessowners and prices for consumers, the two card giants effectively compete against each other to set the highest interchange fees. Doing so means more revenue for the banks that adopt their fee schedules and encourages them to issue cards from whichever of the two card networks has the more lucrative interchange fees. Because banks do not have to set their own swipe fee rates, they become altogether insulated from fair market competition.

In addition to the interchange rates that are solely established by the two card companies, Visa and Mastercard earn separate network fees for the millions of credit card transactions that take place every day. From a macroeconomic perspective, U.S. merchants paid \$100.77 billion in swipe fees on Visa- and Mastercard-branded credit card transactions alone in 2023 (a 63% increase since 2020), and a total of more than \$172 billion in merchant fees for all credit and debit card transactions (a 56% increase since 2020) that same year.¹ It comes as no surprise then that Visa and Mastercard both recently testified at a U.S. Senate Judiciary Committee hearing that their profit margins currently exceed a staggering 50%, while giant money center banks enjoy roughly 30% profit margins.

Swipe Fee Impact on Restaurant Operators and their Customers

While restaurants are ubiquitous in America, the industry is made up of hundreds of thousands of small businesses, running on slightly different business models. Seven in 10 restaurants are single unit operations, and 90% percent of restaurant locations employ fewer than 50 people. The industry is highly competitive and constantly changing in response to trends and economic pressures. In stark contrast to behemoth credit card companies and giant Wall Street banks, the typical small business restaurant runs on a 3-5% pre-tax margin with an average of about \$1.5 million in sales per year.

For restaurant owners and operators, accepting debit and credit cards is an absolute imperative to best serve their customers, and ultimately, to stay in business. However, accepting card payments is one of the highest costs borne by an operator, often only behind only labor and food. Because average food and labor costs have gone up nearly 35% in the last five years on top of already thin margins, it is difficult to truly quantify the profoundly negative impact credit card swipe fees have upon the industry. In fact, the fees act as an inflation multiplier given that they are typically charged as a percentage of every single transaction. But this fact doesn't hurt everyone in the U.S. economy, as Visa's CEO has gone so far as to publicly deem inflation as a "positive" for its business.²

¹ Nilson Report

² Visa Q2 2022 Earnings Call Transcript, available at <https://www.fool.com/earnings/call-transcripts/2022/04/27/visa-v-q2-2022-earnings-call-transcript/>

To make matters worse, restaurant operators and other merchants have no ability to negotiate the credit card rates that the two dominant card companies impose, nor in practicality are they able to seek out alternative payment processing options. This duopoly has so much power that it essentially forces business owners into a “take it or leave it” position if they want to accept credit cards with their logos on them. This is the only type of business “relationship” in which the service provider takes a definitive cut of the operator’s profit and where the terms between the two parties are completely non-negotiable. But the restaurant business is so competitive, they need to accept credit cards, or their customers will go to the restaurant next door or across the street.

It should also be noted that the swipe fee rates set by Visa and Mastercard vary drastically according to the type of card, type of transaction, and the size of merchant, with hundreds of combinations possible. That makes the cost of a swipe difficult to track even for payments experts and often means merchants don’t know how much they are paying for a transaction at the time of purchase. When combined with swipe fee increases year-over-year, it becomes extremely challenging for restaurant operators to budget their card processing costs on a monthly or annual basis.

Finally, restaurant operators are not just paying fees when a physical card is swiped. Card not present – or CNP – transactions have always been important for restaurant delivery, but they exploded during the pandemic. One day, around 60% of all restaurant traffic was off premises, the next, more than 95% was. In a very short period, restaurants were taking orders online, through mobile applications, third-party delivery services, and via contactless payments during curbside pickup. Each of these payments comes with significantly higher CNP swipe fees. And with the rise in CNP payments came more consumer fraud that merchants are penalized for by credit card companies. Merchants are forced to pay 100% of the fraud costs and the chargebacks associated with CNP transactions, even if the operator has proof that they are not at fault.

According to Association data, a majority of adults (60%) say restaurants are essential to their lives, and nearly 9 in 10 people enjoy the experience of going to a restaurant. Even in our current economy, people spend more than half of their food dollars outside the home. But swipe fees are making menu items and everything else consumers purchase more expensive, and the dominant card networks’ control over the credit card market is causing real harm to consumers across the country. To this end, economists estimate that in 2024, swipe fees cost the average American family over \$1,100 each year. Ultimately, excessive swipe fees that act as an inflation multiplier are squeezing both restaurant operators and their customers, and meaningful reform to the payments ecosystem is long overdue.

Benefits of the Swipe Fee Fairness and Consumer Safeguards Act

The restaurant industry is one of the main engines of the Colorado economy. Providing over 300,000 jobs, it is the state’s largest private sector employer, and it generated over \$30 billion in

sales in 2024.³ This also means that Colorado restaurants and other merchants are some of the largest collectors of taxes on behalf of the state. However, this service for the state comes at a significant cost, because card networks require restaurant operators to pay swipe fees on the taxes they collect. The same is true for tips left by card for servers and bartenders. In both cases, the operator collects the money, and it is 100% being passed on. But the swipe fees still must be paid on that amount, so the bottom line is that those swipe fees are coming out of restaurants' margins.

Thankfully, Representative William Lindstedt has introduced the *Swipe Fee Fairness and Consumer Safeguards Act* (HB25-1282) to address these concerns. Overall, the Association's economists estimate this bill would save the Colorado restaurant industry at least \$58 million in swipe fees on an annual basis. In 2023, Colorado businesses and consumers paid over \$200 million in swipe fees on sales taxes alone. These are significant sums that could be kept within the state stimulating local economic activity, as opposed to sending these dollars to global card networks and giant banks in other states and even other countries. The profits of local business owners will stay in their community. Restaurant operators contribute to their local food bank, children's little league teams, churches and synagogues, and local charities. Their success is directly tied to the community they serve.

Not only would this legislation prohibit swipe fees from being charged on the sales tax and tips portion of every credit card transaction, but it would also rein in a number of predatory and anticompetitive practices that continue to harm Colorado businesses and consumers. Most notably, the bill would:

- Prohibit any direct price-fixing of interchange fee rates by networks in coordination with large issuers or other networks.
- Prohibit networks from setting fee schedules of default interchange rates that covered issuers (those with over \$50 billion in assets) use for credit card transactions. This would then require giant credit card issuers to come up with their own interchange fee rates in a competitive market rather than have networks centrally fix rates on their behalf.
- Require that fee schedules must not charge interchange on the portion of any debit or credit transaction attributable to taxes and tips.
- Prevent networks from adjusting interchange fees or other fees to circumvent the restrictions on setting default fee rates that charge interchange on taxes/tips.
- Prevent networks from imposing their "honor-all-cards" rule to require merchants to accept credit cards from covered credit card issuers, which would further create a competitive dynamic among those giant credit card issuers to set their own fees at levels that merchants would be willing to accept.

³ <https://restaurant.org/getmedia/e8ac14d6-1660-46e2-802c-747044db6574/colorado-state-fact-sheet-2025.pdf>

- Require that interchange fees on charitable donations paid by credit card do not exceed 0.3%, and those that are paid by debit cards do not exceed 0.2%. These caps are already in effect on payment card networks operating in Europe.
- Prohibit networks from imposing fees on merchants or consumers simply to initiate a dispute over a transaction, or on how merchants discharge or surcharge for forms of payment.

It is worth noting that HB 1282 reflects developments regarding the *Interchange Fee Prohibition Act*, which was enacted in Illinois last year. While financial trade associations have argued in court that the Illinois law is preempted by federal law, the judge presiding over the case has explicitly considered and rejected the argument that preemption would apply to payment card networks like Visa and Mastercard. Thus, the Illinois law is scheduled to apply to Visa and Mastercard when the law comes into effect on July 1, 2025. This is important because the *Swipe Fee Fairness and Consumer Safeguards Act* has taken these litigation developments into account by making payment card networks the party responsible for complying with this legislation, and they ultimately control how the entire credit card system works.

In sum, this legislation serves as an effective and much-needed measure to help mitigate numerous anticompetitive practices by the Visa-Mastercard duopoly that has continued to cause harm to small businesses and consumers for too long. Most importantly, it would ultimately save Coloradan businesses and consumers hundreds of millions of dollars per year and create a healthier payments ecosystem that benefits everyone in the state. On behalf of the National Restaurant Association and all the restaurant operators in Colorado, I urge the House Finance Committee to pass the *Swipe Fee Fairness and Consumer Safeguards Act* (HB25-1282).

March 13, 2025

**The Honorable William Lindstedt
Chair of the House Finance Committee
Colorado State Capitol
House Committee Room HCR 0112**

Re: ETA Opposition to HB25-1282

Dear Chair Lindstedt, Vice Chair Titone, and Distinguished Members of the Committee,

On behalf of the Electronic Transactions Association (ETA), the leading trade association representing the payments industry, I appreciate the opportunity to express our concerns regarding HB25-1282. Collectively, ETA members process \$52 trillion annually, operating within an efficient and effective payments system. Significant changes, such as removing portions of interchange, pose risks to innovation and system security—both of which are partially funded through interchange fees.

The unworkable nature of the proposal is emphasized by the fact that over 60 similar proposals to prohibit interchange on the sales tax portion of electronic transactions have been considered between 2006 and 2024 and all but one have failed to pass their respective state legislature. The unintended consequences of such a policy change are not fully known, but will most certainly have negative impacts on consumers and small businesses while only potentially providing any significant monetary benefit to large scale retailers.

Impact on Consumers and Employees: Proponents of HB25-1282 argue that removing sales tax from interchange fees would save consumers money. However, there is no guarantee that merchants would pass these savings on to consumers, as many costs are already embedded in existing pricing structures.

- **Service Disruptions:** Consumers would experience immediate inconveniences and inefficiencies resulting from the disruption of an otherwise efficient and secure payments ecosystem.
- **Checkout Complications:** Consumers may face challenges such as:
 - Inability to use their card for certain transactions.
 - Requirement to pay taxes and gratuities separately, potentially in cash.
 - Slower checkout times and reduced satisfaction, particularly for purchases with varying tax rates (e.g., groceries).
- **Decreased Rewards:** Consumers risk losing valuable benefits, such as airline miles, cashback, and loyalty program rewards, which are funded in part by interchange fees.
- **Loss of Privacy:** Compliance with HB25-1282 would necessitate the collection and auditing of itemized transaction data by payments companies to ensure

accurate tax calculations. This would compromise the current level of privacy consumers enjoy regarding their purchase details.

- **Pass-Through Costs:** Merchants may pass the significant costs of implementation—such as compliance and technology updates—directly to consumers through increased prices.

Impact to Small Businesses: While big box retailers may be able to adjust their systems more readily to comply with the bill's requirement of providing additional sales tax information, small merchants who currently use a point-of-sale (POS) terminal with more limited functionality would need new software and, in most cases, new hardware, costing them additional money up front. The ability for small businesses to offer a multitude of payment options is critical to their ability to compete with big-box retailers, give their customers the options they desire, and remain flexible in times of crisis. Small businesses would bear the greatest burden of implementing HB25-1282 due to the cost and complexity of compliance. The state's small businesses would need to spend hundreds of dollars for equipment, testing and reprogramming to comply – time and money that they simply can't afford – for a reduction in interchange of about \$6 per year.

- **Technology Upgrades:** Unlike larger retailers, small merchants using basic point-of-sale (POS) terminals would need to invest in new hardware and software to meet the bill's requirements.
- **Administrative Costs:** Compliance would require new processes, increased audits, and extensive employee training, further straining small businesses financially and operationally.
- **Out-of-State Transactions:** Small businesses would also face additional challenges developing systems to accommodate transactions originating from outside the state.

Impact to Local Banks and Credit Unions: HB 25 1282 would hurt Colorado chartered banks and credit unions by limiting the amount they can charge to process credit and debit card transactions. A court ruling in Illinois held that state chartered banks and credit unions must comply with the recent Illinois law, while excluding federally chartered banks, leaving local banks and credit unions at a comparative disadvantage.

Development of entirely new technology: The current interchange fee model is based on the final purchase amount, without specific data on goods, services, or applicable tax rates. While payment networks have developed advanced tools to aid merchants—such as POS systems that calculate and apply tax rates for specialty items—HB25-1282 would require entirely new technology and new separate Colorado based payment network separated from the global payment network to capture state sales tax, gratuity amounts, and itemized receipt data.

Creation of Privacy Issues: Implementing HB25-1282 would mandate the acquisition and storage of detailed transaction data, including SKU-level information, by the

payments industry. This level of granularity, currently not collected, raises significant privacy concerns for consumers. Each transaction would need to be itemized and audited to ensure compliance with state and local tax requirements, eroding the privacy of individual purchases.

The benefits of interchange: Interchange fees are a cornerstone of the payments ecosystem, enabling secure, fast, and reliable electronic transactions.

- **For Consumers:** Interchange fees fund consumer benefits like cashback, rewards programs, and the research and development of innovative payment technologies.
- **For Merchants:** These fees support fraud detection and prevention, ensure system reliability, and provide access to critical services that drive customer convenience and satisfaction.

Interchange rates are market-driven, competitive, and negotiable, enabling businesses to secure terms suited to their needs. Over time, competition has naturally lowered interchange costs, ensuring affordability while supporting the infrastructure necessary for a robust and secure payment system.

As previously mentioned, all of the states that have seriously considered this policy have recognized that it would create more harm than good for both businesses and consumers. Some recent consideration examples include:

- **Arizona:** The Arizona House of Representatives recently voted against a bill with similar language on March 6th. The bill HB 2629 also would also have prohibited interchange from being collected on the sales tax portion of a transaction.
- **Illinois:** Illinois is the only state to pass similar legislative language during the late-night closing hours of its 2024 session. A lawsuit filed by the Illinois Bankers Association and the Illinois Credit Union Leagues resulted in a preliminary injunction excluding 90% of transactions from application of the law. Experts estimate compliance costs ranging from hundreds of millions to \$10 billion, requiring years to develop new technologies and encourage adoption.
- **Georgia:** In 2024, the Georgia House of Representatives convened a legislative study committee to study the issue, focusing on swipe fees and interchange fees. After thorough analysis, the committee recommended reforming its vendor compensation program rather than removing interchange fees from the sales tax portion of transactions.
- **Tennessee:** The Tennessee Advisory Commission on Intergovernmental Relations (TACIR) studied the costs associated with interchange fees on tax portions of transactions. In its January 2025 report, the Commission advised Tennessee to seek out vendor compensation rather than removing interchange.

Conclusion: The creation of a Colorado based payment network separated from the global payment network under the requirements of HB25-1282 would have significant adverse effects on both small businesses and consumers. Small business owners would face substantial financial and operational burdens to comply with the new mandates, while consumers would likely bear the cost of these changes through increased prices and diminished benefits.

* * *

We appreciate you taking the time to consider this important issue. More information on the payments system is located on the next page. If you have any questions or wish to discuss further, please contact me.

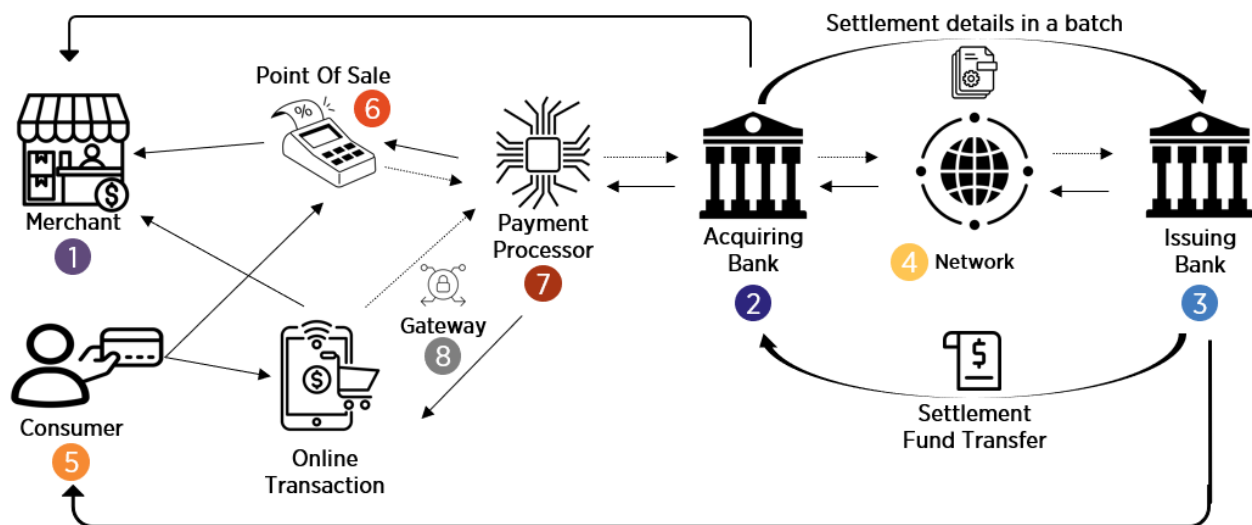
Respectfully,



Brian Yates
Senior Director, State Government Relations
Electronic Transactions Association
202.677.7417 | byates@electran.org

Overview of The Payments Ecosystem

Summary: The payments industry has remained at the forefront of developing innovative payment technology, providing merchants and consumers with safety, security, speed, and ease for transacting electronic payments, not to mention increasingly numerous options for doing so. These developments are a result of many stakeholders acting seamlessly and in unison across a complex ecosystem that processes payments. Each of the stakeholders below provides valuable and essential services to merchants and/or consumers.



- 1 Merchants:** provide goods or services and agree to accept credit and/or debit cards according to their merchant and processing agreements with their acquirer; receive payment details through point of sale systems, or online; when a merchant makes a sale using a customer's electronic payment card, the system that processes the transaction recognizes only the final purchase amount on which interchange is based.
- 2 Merchant acquirers:** provide access to payment networks and presents transaction information from merchants to payment networks.
- 3 Issuing entities:** financial institution or commercial entity that provides consumers with a payment instrument (such as a credit or debit card).
- 4 Payment networks:** exchange data between card issuing entities and merchant acquiring entities and settles payments.
- 5 Consumers:** hold payment instruments and participate in the marketplace.
- 6 Point of Sale (POS) systems:** electronic equipment used for pricing and recording transactions, which can be in the form of software, hardware, or combination; these systems DO NOT provide detailed transaction information, (e.g., items bought, tax rate), to neither acquirers or card networks.
- 7 Processors:** provide payment processing across the payment network; may be an acquirer, and may, in some cases, serve both the acquiring and issuing sides of a transaction.
- 8 Gateways:** an internet-based service that transports credit card information from a computer terminal or website to a credit card processor.



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Central | Telephone 720.308.0842
P.O. Box 113, Littleton, CO 80160
www.technet.org | @TechNetCentral

March 13, 2025

The Honorable William Lindstedt
Chair
Finance Committee
Colorado State House of Representatives
200 E. Colfax Avenue
Denver, CO 80202

**Re: HB25-1282, Payment Card Network Practices & Fees, TechNet
Opposition**

Dear Chair Lindstedt and the Honorable Members of the House Finance Committee:

I write on behalf of TechNet and its members to share our concerns with HB25-1282, which would enact the "Swipe Fee Fairness and Consumer Safeguards Act," and regulate interchange fees.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, Tallahassee, and Washington, D.C.

TechNet promotes the banking and financial technology sectors by removing regulatory barriers to financial access and literacy, economic growth, and job creation. We support innovation in the banking and fintech sectors by encouraging state policymakers to ensure the regulatory system remains technology neutral and regulates new technologies, including digital currencies and alternative banking, using a balanced approach that encourages fair competition.

There are many reasons why HB25-1282 is impractical and costly to businesses. First, systems don't support it. When a retailer makes a sale using a customer's electronic payment card, the systems that process the transaction recognize only the final purchase amount. U.S. infrastructure does not support a system where multiple amounts (taxes) can be excluded from the interchange fee, such as local sales taxes that vary. Because these systems don't currently exist, the prohibitions required in

this bill would be cost prohibitive for businesses, large and small. Businesses will need specialized terminals and software to itemize and communicate segmented data to the card networks at the time of sale. Ultimately, the costs of a new system could fall onto the consumers in Colorado.

If the bill passes, there are two options for merchants to comply. The first one would be to require consumers to pay in two transactions – one for the sale of the underlying product or service, and another for the tax portion of the sale. Customers would pay for their goods with their preferred payment method. Then the customer would pay sales tax via cash or check. Cash or check would be required as there is no unified system to implement these suggested changes. This would drastically change the consumer experience, and the amount of sales tax consumers pay every time they are out shopping will suddenly be under a microscope.

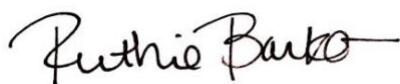
A second option is that merchants will have to send payment companies every detail of a person's shopping habits. The global payment system is designed so that payment networks need very little of a consumer's personal information to process a payment. Interchange legislation could fundamentally change that, requiring the tracking of every detail of a person's shopping habits: where you shop, exactly what you buy, how often you buy it, how much you spend.

Today, the only information transmitted from merchants to payment companies is how a customer is paying and the total amount of the transaction. Under this mandate, to calculate and refund sales tax expenses, which differ by county, city, and item, merchants would also need to send payment companies the name of the store, the exact location of the store, and exact items purchased. This option is in direct conflict with data minimization standards, or the collection of only necessary information is used to complete a transaction safely and accurately.

Dozens of bills have been introduced on this issue and none have been enacted into law due the compliance challenges and cost, with the exception of Illinois HB 4951. As part of a last-minute budget deal, the Illinois General Assembly passed this measure as part of an omnibus proposal, and the measure is currently being challenged in court.

HB25-1282 will lead to cost increases for businesses and consumers and create compliance hurdles that will be difficult to overcome. For the above stated reasons, TechNet respectfully asks that the Committee does not advance this bill. If you have any questions, please contact me at rbarko@technet.org.

Best regards,



Ruthie Barko
Executive Director, Colorado & Central U.S.

TechNet

Cc: Members of the House Finance Committee

**TESTIMONY OF DAN SWANSON
BEFORE THE COLORADO HOUSE FINANCE COMMITTEE
ON HB25-1282, THE SWIPE FEE FAIRNESS AND CONSUMER SAFEGUARDS ACT
MARCH 13, 2025**

Thank you for the opportunity to testify on the Swipe Fee Fairness and Consumer Safeguards Act (HB25-1282), legislation that would rein in unreasonable fees and anticompetitive practices that come from the giant credit card networks Visa and Mastercard. Colorado's consumers, merchants, and charities need meaningful relief from the credit card industry's excessive fees and unfair practices, and this bill takes measured steps that would help reduce fees, safeguard consumer data, and promote greater competition and transparency in the credit card market.

My name is Dan Swanson, and I am an attorney and consultant who has worked on payments policy issues for nearly 20 years. From 2006 to 2023, I worked as a staffer for U.S. Senator Dick Durbin of Illinois, including serving as the Senator's lead counsel on payments policy during the passage of federal debit card reform legislation in 2010 and the introduction of federal credit card reform legislation in 2022. I am proud that the reform efforts I worked on were bipartisan and were supported by a broad coalition of organizations representing the interests of consumers, workers, and businesses of all sizes. I firmly believe that our nation needs an electronic payments system that is efficient, cost-effective, and fair to all participants in the economy. Unfortunately, that is not the system we have today.

The challenge with card network swipe fees

The prices of everything American consumers pay for are inflated by excessive transaction fees that are established by the dominant card network companies Visa and Mastercard. Visa and Mastercard, which control around 85 percent of the [credit](#) and [debit](#) card network markets, have created several fees that are deducted from the transaction amount whenever a card bearing one of their network logos is swiped. These fees include network fees, which Visa and Mastercard keep for themselves, and interchange fees, which Visa and Mastercard establish but which are collected by the banks that issue cards.

Whereas every other type of fee charged by banks is set in a competitive market environment where each bank sets its own rate for the fee it receives, interchange fees within the Visa and Mastercard systems are centrally fixed by the card network companies on behalf of the thousands of financial institutions that issue Visa- and Mastercard-branded cards. Visa and Mastercard have established interchange [fee schedules](#) with dozens of rate categories that vary depending on the type of card used and the type of transaction. Every card-issuing bank in the Visa and Mastercard networks charges fees based upon the fee schedules that Visa and Mastercard put forward. In other words, the banks that get interchange fees do not set their own fees and do not compete with each other on fee rates.

This centralized fee-fixing causes serious market distortions. It reduces the incentive for card-issuing banks to manage their operational and fraud costs efficiently, because the banks are guaranteed to receive the same amount of network-fixed interchange fees no matter how efficient

or inefficient they are or how much fraud occurs on their cards. Also, Visa and Mastercard each impose so-called network rules that require merchants to accept all cards bearing their network logos, even though the interchange fee rates for some cards (such as rewards cards) are significantly higher than others. The combination of centrally-fixed rates and “honor all cards” rules gives Visa and Mastercard incentive to set high interchange fee rates in order to encourage banks to issue more cards, and since Visa and Mastercard collect network fees for themselves on every transaction, they profit as more cards are issued and used. Given Visa’s and Mastercard’s market dominance, there is little merchants can do to restrain these high fees, and it is difficult for merchants to operate without accepting Visa and Mastercard.

As a result of these factors, U.S. merchants have been forced to pay ever-rising interchange fees that are not tethered to any card-issuing bank’s actual costs and that subsidize bank inefficiencies. Visa and Mastercard typically set interchange rates as a flat fee plus a percentage of the transaction amount, often totaling up to 3 percent or more of the transaction amount. Merchants are compelled to raise retail prices in order to cover the cost of these transaction fees, meaning the fees inflate the prices paid by consumers. Visa and Mastercard even impose fees on the tax and tip portion of retail transactions, meaning that merchants must pay swipe fees on money they do not retain, and the card networks also impose high fees on charitable donations made by card, which diverts funds away from their intended charitable purpose.

A staggering total of over [\\$172 billion](#) in fees was charged to merchants on credit and debit card transactions in 2023, and these fees increased retail prices by an average of [\\$1,100](#) per American family. The credit card interchange fee rates paid by U.S. merchants are among the [highest in the world](#), as many other countries have [taken action](#) to rein in these excessive fees. The status quo is unsustainable, and merchants, charities, and consumers in Colorado and across the United States need relief.

The Swipe Fee Fairness and Consumer Safeguards Act

House Bill 25-1282, the Swipe Fee Fairness and Consumer Safeguards Act, is bipartisan legislation that would rein in several of the most problematic card network fees and practices. I commend the bipartisan sponsors of the bill for their leadership in this important reform effort.

Section 4 of the bill identifies eight problematic card network practices and prohibits card networks from engaging in or continuing those practices. Section 4’s provisions include:

- [Prohibiting card network collusion in setting credit card interchange fees](#): Section 4(a) would prohibit card networks from fixing or conspiring to fix credit card interchange fees with, or on behalf of, other card networks or giant card-issuing financial institutions (*i.e.*, financial institutions with over \$50 billion in assets, of which there are several dozen nationwide though none are based in Colorado). This provision would safeguard against collusion by ensuring that Visa and Mastercard do not set interchange fee rates in direct coordination with each other or with their largest card-issuing banks.
- [Prohibiting card networks from fixing credit card fee rates on behalf of giant banks through fee schedules](#): Section 4(b) would prohibit card networks from continuing their collusive

practice of setting fee schedules for credit card interchange rates that giant card-issuing banks simply copy and use for the fees they charge. The effect of this provision would be to have giant credit card issuers come up with their own credit card interchange fee rates rather than have networks uniformly fix the same rates on their behalf. Large banks are easily capable of setting their own fee rates in a competitive market environment, and setting their own rates would give them greater incentive to manage their operational and fraud costs efficiently rather than having Visa's and Mastercard's centrally-fixed rates subsidize their inefficiencies.

- Prohibiting card networks from applying interchange fees to taxes and tips: While the bill would allow all credit card issuers with assets under \$50 billion and all debit card issuers to continue to use Visa's and Mastercard interchange fee schedules, section 4(c) would prohibit card networks from setting rates on those fee schedules that apply a percentage fee to the transaction amount and that do not exclude the tax and tip portion of a transaction from that amount. Taxes and tips are not revenues that merchants retain, but when interchange fees are charged on these portions of the transaction, merchants are forced to raise retail prices to cover the larger fee amount. It is estimated that in 2023, U.S. merchants paid nearly \$10 billion in interchange fees on state sales and excise taxes, including over \$200 million paid by merchants in Colorado.
- Prohibiting card networks from manipulating fees to circumvent the prohibition of interchange fees on taxes/tips: Section 4(d) would prevent card networks from adjusting interchange fees or other fees on the non-tax/tip portion of a transaction in a manner that is intended to or that has the effect of circumventing the restrictions in section 4(c) on setting fee rates that charge interchange on taxes/tips. This provision is a safeguard to ensure that the tax/tip fee prohibition cannot be gamed or bypassed by Visa and Mastercard.
- Prohibiting card networks from penalizing merchants who choose not to accept credit cards issued by giant banks: Since section 4(b) would prevent card networks from setting credit card interchange fees on behalf of giant banks and would thereby prompt those banks to set their own credit card interchange fee rates, section 4(e) would bar the card networks from applying their "honor all cards" rules when it comes to these giant credit card issuers, thus enabling merchants to choose not to accept credit cards issued by a giant bank if the bank charges fees that are too high. This provision gives merchants negotiating leverage to ensure that giant banks set credit card interchange fees at fair levels that are acceptable to all parties.
- Prohibiting card networks from using or distributing consumer or merchant data from specific transactions except for authorized purposes: Section 4(f) would protect consumers and merchants from having card networks use, share or sell card transaction data except for specific purposes such as processing the transaction, preventing fraud, and supporting loyalty programs. This provision would safeguard against networks using or disseminating private transaction data in problematic ways such as selling it to data brokers.
- Prohibiting card networks from charging fees regarding disputed credit card transactions: When a transaction is disputed, Visa and Mastercard often charge opaque fees for the mere act of requesting that the disputed transaction be reviewed as well as penalty fees on merchants when transactions are charged back. These fees, which often range from \$20 to

\$100 per dispute, are not necessarily disclosed upfront and can be imposed on merchants even before a determination has been made regarding who is liable for the transaction. Section 4(g) of the bill would prohibit card networks from charging such disputed transaction fees either to merchants or consumers unless and until a determination has been made regarding liability for the transaction and notice has been provided of that determination.

- Prohibiting card networks from penalizing merchants for lawful discounts or surcharges: [Visa](#) and [Mastercard](#) each have detailed contractual rules regarding how merchants can use discounts or surcharges for certain payment methods, and both card networks threaten penalties for merchants who offer discounts or surcharges in ways that the networks don't like, even if the merchant is complying with federal and state law. Visa and Mastercard should not stand in the way of lawful efforts by merchants to incentivize consumers to pay with less costly payment methods, and Section 4(h) prohibits the card networks from imposing a penalty on a merchant for setting prices on goods or services in a manner that complies with state and federal law.

Additionally, the bill places reasonable limits on the interchange fees that Visa and Mastercard establish with respect to charitable donations made by debit or credit card. Currently Visa's and Mastercard's fee schedules treat charitable donations similarly to other merchant transactions and apply high fee rates on the transactions. This diverts transaction funds away from the donation's intended charitable purpose to an extent that goes beyond what is necessary to cover the cost of processing the transaction. Section 5 of the bill constrains card networks from establishing charitable donation fees on their fee schedules that exceed 0.2% of the transaction for debit cards and 0.3% of the transaction for credit cards. Visa, Mastercard, and their card-issuing banks are fully capable of processing transactions at these rates; we know this because Visa, Mastercard and issuers operate in the European Union, which [caps](#) debit and credit rates at those levels.

Notably, the bill's provisions are enforceable only against payment card networks. The bill enables merchants, consumers, charities, or other entities that are harmed as a result of a violation of the bill to bring a civil action against payment card networks to seek damages and, in certain circumstances, injunctive relief. The bill does not authorize enforcement measures against banks - nor does it need to, because payment card network companies like Visa and Mastercard set the fees and the rules for transactions involving all cards with their logos on them and thus reform can be carried out by changing Visa's and Mastercard's behavior.

In short, the Swipe Fee Fairness and Consumer Safeguards Act will help consumers, merchants, and charities by reining in payment card network fees and practices that excessively inflate the cost of card transactions. Passing any of the reforms in this bill would make a helpful difference. Passing all of them would significantly benefit Colorado consumers, merchants and charities, while making the electronic payment system more efficient, more competitive, and more fair.

Criticisms of the bill do not stand up to scrutiny

Payment card networks and issuers of credit cards have long opposed any and all legislative efforts to reform credit and debit card swipe fees. Often, their objections bear little relation to the actual legislative proposal at issue - they simply argue that any change to the status quo that

diminishes network or issuer revenue is unacceptable. This argument overlooks that the networks and issuers have only achieved their lucrative card fee revenue stream because they have set up a system of centrally-fixed fees that are insulated from normal marketplace competition. These fees line networks' and issuers' pockets, but they make it far more costly than it needs to be for Americans to transact money. Simply put, the current system of card network transaction fees and anticompetitive practices cuts into merchants' bottom line, eats away at charitable donations, and inflates retail prices for consumers. That is not an acceptable status quo.

The reforms that the Swipe Fee Fairness and Consumer Safeguards Act would provide are measured and narrowly targeted at giant and enormously profitable entities. The bill's prohibitions and enforcement provisions apply only to card networks like Visa and Mastercard, each of which recently [disclosed](#) that they enjoy profit margins of around 50%. The bill would also promote competition among the nation's biggest credit card-issuing banks by preventing Visa and Mastercard from continuing to set fee rates on those banks' behalf, while still permitting all other banks to use Visa and Mastercard's centralized fee schedules. In doing so, the bill arguably gives smaller banks a competitive advantage against the giant card issuers (who recently reported [record profits](#)) by allowing Visa and Mastercard to continue to centrally fix small banks' fee rates on their behalf.

The bill's reforms are also carefully tailored so as not to require that any cards be reissued or that any expensive changes need to be made to point-of-sale hardware. Also, Visa and Mastercard are easily capable of changing their fee schedules and practices to accommodate state law changes, as they already regularly maintain different rules for different regions.

Nor does the bill disrupt the rewards program ecosystem for credit cards. While the credit card industry and card issuers often claim that any decrease in their card revenue will force them to eliminate consumer rewards, this claim defies economic logic for several reasons. First, rewards programs are offered by card issuers, not the card networks to whom the bill's prohibitions apply. Second, rewards are a tool that card issuers use to win cardholder business, and an issuer that threatens to cut its rewards program will likely lose cardholders to other card issuers. Market competition incentivizes the use of rewards programs to win consumer business, which is why many retailers with far smaller profit margins than banks [offer significant rewards programs](#), and why card issuers in the [European Union](#), [Australia](#), and other countries that have capped interchange fees continue to offer rewards. Third, U.S. banks make far more in card revenue than they pay out in rewards. For example, in 2022, U.S. banks paid [\\$41.1 billion](#) in credit card rewards but collected [\\$125 billion](#) in credit card interest and fees from consumers as well as [\\$160 billion](#) in swipe fees from merchants. Banks simply do not need to reduce rewards to remain profitable even if their interchange revenue is somewhat diminished.

The credit card networks and card issuers often threaten that the sky will fall if any changes are made to the swipe fee system. But reform has taken place in countries around the world, and electronic payment systems in those countries are often more efficient, more secure, and less costly than the system that Visa and Mastercard dominate here in the United States. Our status quo needs to change. Colorado consumers, merchants and charities need relief from high inflationary fees, and this bill will help provide it. I urge the Committee to pass this bill.