# Please Oppose AR HB 1775

We urge you to oppose HB 1775 which would prohibit the collection of interchange fees on the portion of a retail transaction attributable to sales taxes or unspecified state and local fees.

We do so because the bill simply does not work and, if enacted, would have a significant impact on the ability of Arkansans to use their payment cards quickly and seamlessly at point of sale. Passage of this bill will impose unreasonable burdens on small financial institutions and the national payments system.

## Interchange in a nutshell

When a retail merchant accepts a card for payment, they pay a "merchant discount fee," which is typically 2 – 2.5% of the transaction amount. One component, the "interchange fee," is simply that portion of this fee that is received by the bank or credit union that issued the customer's card. These fees typically average 1.75% of payment card transactions.

Retail merchants pay this in order to access the global electronic payments network. This allows retail merchants to gain the opportunities for increased revenue and guaranteed payment provided by payment card acceptance.

Interchange revenue is critical to running a card program, partially reimbursing the banks and credit unions that issue the cards for the float on the funds, the risk of nonpayment or fraud, and other activities associated with running a card program.

## The impact of HB 1775

When an Arkansan proffers a payment card at a retailer or enters an account number to make an online purchase, the transaction flows over one of several national networks—all of which can process the transaction within seconds to allow for speedy checkout.

All of these networks treat the transactions as a single unit and do not currently have the ability to subtract the sale taxes or other fees from the purchase amount and then levy the interchange fee on the remainder.

Additionally, enacting HB 1775 defeats one of the purposes of interchange fees: how would these fees be recovered in a fraudulent transaction or, more likely, if an item is returned to the retailer?

The reality is that the bank or credit union would be forced to impose those costs on all of their customers.

Next, HB 1775 imposes heavy penalties on issuers or networks that are not in compliance—a matter of concern to smaller institutions.

Finally, passage of HB 1775 presupposes that all networks can reconfigure a parallel system of interchange settlement unique to Arkansas while the other 49 states operate as today. If networks cannot readily reconfigure their systems, Arkansans will be forced to use their cards twice at point of sale or pay cash for sales taxes and fees—a burden on consumers and retailers alike.

We urge you to oppose HB 1775.

ELECTRONIC PAYMENTS COALITION

## A Long Line of Rejected Legislation

*Arkansas HB 1775 unwisely proposes to prohibit the levying of interchange fees on any portion of a credit card or debit card sale representing any state, local, or district taxes.*

Following is a list of similar proposals that have been carefully considered in previous years in other states. Each proposal was uniformly rejected in its committee of reference due to harm to consumers, loss of sales tax revenue, legal deficiencies, and operational hurdles.

**2006**

Kentucky HB 592
New York AB 11193

**2007**

Florida SB 1724
Kansas SB 348
New York AB 1020
Washington SB 5884
Washington SB 5885

**2008**

Kansas HB 2862
Louisiana HB 673
Louisiana SB 516
New Jersey SB 1138
New Jersey AB 2261
Rhode Island HB 7509

**2009**

Connecticut HB 6311
Massachusetts HB 1025
Nebraska LB 186
North Carolina HB 1576

**2010**

New Jersey SB 1631

**2012**

Iowa HSB 666

**2013**

Arkansas SB 607

**2014**

Nebraska LB 991

**2015**

Colorado HB15-1154

# Sales Tax Plan Will Hurt Arkansas Retailers and Consumers

ELECTRONIC PAYMENTS COALITION

*Proposed legislation in Arkansas will prohibit the levying of any portion of the merchant discount fee, including interchange, on the sales tax portion of a credit or debit card transaction.*

## This proposal will increase operational burdens and administrative costs for Arkansas retailers

- When a retailer makes a sale using a customer's electronic payment card, the system that processes the transaction recognizes only the final purchase amount, on which the merchant discount fee is based.
- In order to realize the sales tax portion of each item purchased – noting that some items are not even subject to tax – retailers would be required to create and implement new systems and operational mechanisms to ensure compliance with the legislation. Implementing such systems and operations would impose significant burdens to retailers and increase their administrative costs.
- Because the card issuer bears the credit risk for the entire transaction, retailers may see their costs increase for the underlying transaction.
- Smaller businesses that require the lowest overhead costs would be burdened most. In turn, these added overhead costs would likely raise overall prices for consumers.

## Arkansas consumers will be harmed

- The creation of new operational systems will result in higher fees for retailers, which will result in higher costs at the register – something that the consumer ultimately will have to pay.
- Consumers will be required to pay for a separate transaction— one for the sale of the product or service and the other for the tax portion of the sale.
- A separate cash or check transaction for the tax portion of a sale will be a huge burden to consumers when paying for large ticket items, such as computers and electronics.
- The increased costs associated with the requirements imposed by the legislation would lead small businesses to reconsider accepting electronic payments, thus reducing payment options for consumers.

## Arkansas will lose sales tax revenue

- Consumers frustrated with having to pay cash for sales taxes may shift their purchases to merchants outside the state.
- The state would lose an important audit trail to ensure that merchants are remitting the proper amount of sales tax owed.

## What the real plan is

- This legislation is nothing more than an appeal for government price controls on the electronic payments industry, including community banks and credit unions.
- Some retailers are attempting to shift the debate by making it look like interchange is a fee that consumers pay.
- The reality is that interchange is a retailer's cost of doing business—the cost of accepting payment cards.

## Why Arkansas legislators should reject this plan

- Retailers reap huge benefits from accepting payment cards, including more sales, less fraud, and faster payment.
- They welcome the opportunity to offer consumers the convenience of electronic payments, but now, they want to shift their business costs to bolster their profits.
- The fact is some retail groups are trying to use the government to shift costs from one industry to another, and in the end the consumer will lose.

ELECTRONIC PAYMENTS COALITION

## The Truth about Interchange and Card Acceptance

*There are a lot of misconceptions about card acceptance, interchange fees, and the electronic payments system. It's important that our legislators have the facts - straightforward, up front - in order to make the best decisions that will impact the people of Arkansas. Below we take a look behind the curtain and reveal the truth behind some of the top myths about interchange fees and electronic payments.*

***Merchant Myth #1: Merchants can't negotiate their interchange fees.***
**FACT:** Merchants can – and do – directly negotiate with the networks to lower their interchange costs through a variety of incentive arrangements, including deals in which the savings are rebated to the merchant. Some merchants prefer to handle the negotiation through their association or other group arrangement. Entire categories of merchants have obtained lower interchange rates based on their particular business needs.

> →For example, Visa and MasterCard capped interchange on gasoline sales and established lower interchange rates for categories of merchants such as grocery stores, utilities and convenience purchases. Also, merchants routinely switch processors for a better package and price – and therefore have a much greater ability to negotiate card acceptance costs than they do for most other business services, such as electricity, postage, water, or trash collection.

Moreover, the merchant interchange settlement – the largest antitrust settlement in history – resolved this question once and for all, now allowing smaller merchants to form "buyers groups" to collectively negotiate rates with retailers. Also, by allowing merchants to assess a "checkout fee" on their customers, these merchants can use this as leverage in negotiating a rate with the networks.

***Merchant Myth #2: Merchants can't offer a cash discount.***
**FACT**: There is nothing prohibiting merchants from offering a cash discount. In fact, federal law allows merchants to offer cash discounts, and the card networks all make very clear in their rules that discounts for cash, checks, debit or other credit cards are also allowed. Also, as allowed by the interchange settlement, merchants can now assess their customers an additional "checkout fee" for paying with a credit card – provided they are in a state where this practice is legal and the merchant follows a number of basic consumer protection measures.

***Merchant Myth #3: Merchants prefer all customers to pay with cash.***
Merchants are increasingly moving away from cash and check acceptance because of the many benefits electronic payments offer over other forms of payment, including increased sales opportunities, higher profit, guaranteed payment and cash flow. Airlines, grocery stores, restaurants and other industries have adopted this cashless model with success.

For instance, by accepting cards, the Salvation Army "cashless kettles" average donations went from $2 to around $15 when using credit or debit, a 650% increase. New York City cab drivers saw overall ridership and revenue increase and tips double over "pre-plastic" days.

***Merchant Myth #4: Interchange fees are higher in US than in any other country***
FACT: The **total** amount merchants pay for the benefit of accepting credit or debit cards – the merchant discount fee – is in fact roughly the same in the U.S. and Europe. In some countries, the "interchange" portion of the merchant discount fee might be lower, but the total amount merchants pay still remains about the same. In some countries, these fees are lower than in the U.S. because the government has interfered with the market and imposed price controls on interchange. These countries consequently have less innovative debit systems – often relying on PIN debit, making online debit purchases impossible online or at a merchant without a PIN pad.

***Merchant Myth #5: The Durbin amendment only impacted large banks because small banks and credit unions are exempt from the fallout from these price controls on debit interchange fees.***
FACT: The so-called "exemption" for small financial institutions does not work. In fact, studies have shown that credit unions are beginning to see erosion in their interchange revenues, as these smaller financial institutions were not exempted from the routing and exclusivity portions of the Durbin amendment – only the price caps. The cost of providing multiple networks falls most heavily on smaller institutions.