TESTIMONY OF DAN SWANSON
HEARING BEFORE THE SENATE COMMITTEE ON FINANCE
ON S. 135, AN ACT RELATING TO CREDIT CARD FEES AND REQUIRING THE ACCEPTANCE OF CASH
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Thank you for the opportunity to appear before the Committee again to speak about S. 135, legislation that would help rein in excessive payment card interchange fees that are crushing small businesses and inflating retail prices for consumers. Since I last testified on April 9, 2025, there have been several noteworthy developments on the issue of swipe fee reform that are important to bring to the Committee's attention, including:

- a merits decision in the federal lawsuit over Illinois' interchange fee reform legislation, in which the court upheld the law against a financial industry challenge and determined that states are not preempted by federal law from regulating interchange fees;
- the introduction of updated swipe fee reform legislation, S. 316, by Senator Perchlik that simplifies the reform and would only make payment card networks like Visa and Mastercard subject to enforcement actions; and
- a letter from 20 pro-consumer and pro-competition advocacy groups supporting state-level swipe fee reform efforts.

My name is Dan Swanson, and I am an attorney and consultant who has worked on payments policy issues for nearly 20 years. I was born in Burlington and while I haven't lived in Vermont since I was a kid, I've been fortunate to spend a lot of time visiting my grandparents and other family in Stowe, Burlington, and South Hero throughout my life.

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 have been bipartisan and have been supported by a broad coalition of consumer groups, labor unions, and businesses of all sizes. And I was honored to work closely with Senator Peter Welch, both in the House of Representatives where he was the longtime lead champion for swipe fee reform, as well as when he became a Senator.

The challenge with payment card network swipe fees

The prices of everything American consumers pay for are inflated by excessive transaction fees and anticompetitive rules that are established by the dominant payment card network companies Visa and Mastercard. About two-thirds of all retail payments are currently made with credit or debit cards, and 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, tapped, or used online. 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. The fees rates are typically established with a percentage-based fee component plus a flat fee component (e.g., 2.30% + $0.10 per transaction). Every card-issuing bank in the Visa and Mastercard networks charges interchange 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 insulates fee rates from normal marketplace competition and 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 as every other bank in the network, 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 swipe fees often add up to 3 percent or more of the transaction amount. Merchants, who generally have low single-digit profit margins, struggle to absorb these costs and are often compelled to raise retail prices or add surcharges to help cover the cost, meaning the fees inflate the prices ultimately paid by consumers. Visa and Mastercard even impose swipe fees on the sales tax and gratuity portions of retail transactions, meaning that merchants must pay swipe fees on money that they collect on behalf of the state or on behalf of their employees and that the merchants do not themselves retain.

A staggering total of over $187 billion in swipe fees was charged to U.S. merchants on credit and debit card transactions in 2024, and these fees increased retail prices by an average of $1,200 per American family. Visa and Mastercard credit card swipe fees increased from an average rate of 2.26% in 2023 to 2.35% in 2024. 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 – for example, in the European Union, credit card interchange fees are capped at 0.3%. The status quo is unsustainable, and merchants and consumers in Vermont and across the United States need relief.

S. 135 would promote fairness and would benefit merchants and consumers

S. 135 would take a measured but important step to provide relief from the excessive swipe fees that are burdening merchants and their customers. The bill would prohibit the charging of interchange fee rates that apply to the tax and tip portions of card transactions. It is not fair, and not necessary, for the credit card industry to impose a swipe fee penalty on Vermont merchants who are performing the function of collecting taxes on behalf of the state or tips on behalf of employees. These taxes and tips are not revenues that merchants retain, yet interchange fees are charged on these amounts. Merchants cannot opt out of this system or negotiate its terms, and therefore must absorb these charges as a mandatory cost of participating in a payment marketplace controlled by a limited number of card networks. It is estimated that in 2024, U.S. merchants nationwide paid nearly $11 billion in interchange fees just on state sales and excise taxes, **including $14.7 million paid by Vermont merchants on sales taxes.**

The bill's prohibition on tax and tip swipe fees is straightforward, and here's how it would work.

- If a merchant informs the other participants in the credit or debit card payment chain at the time of a transaction's authorization or settlement what portion of the transaction is attributable to taxes or tips, then those other participants (the processor, the merchant's acquiring bank, the card-issuing bank, and the card network company) would not be allowed to charge or collect interchange fees on those portions of the transaction. In other words, the percentage-based fee component of the interchange fee rate that Visa and Mastercard set would not be multiplied against the full transaction amount, but rather the full transaction amount minus the tax and tip portions.
- If a merchant does not send the tax and tip amount to the other participants at the time of the transaction, then an interchange fee can be charged on the full amount of the transaction. But, a merchant will have 180 days to seek reimbursement for the interchange fees that were charged upon the tax and tip portion by submitting tax documentation showing those amounts, and then the merchant would receive a credit for that amount of interchange fees that were charged. If the merchant is informed that they have provided inaccurate tax or tip information, the merchant must correct it within 30 days.
- The bill has an anti-circumvention provision saying that the participants in the payment chain cannot manipulate fee rates in order to get around the tax and tip prohibition - for example, by increasing the percentage-based fee rate component that applies to the remainder of the transaction.
- The bill allows for the State Attorney General to conduct investigations and take enforcement actions when the bill's provisions have been violated, with violators subject to a civil penalty of $1,000 per transaction. The bill also allows merchants who have been harmed by violations to bring a civil action for damages and equitable relief. Note that Senator Perchlik's updated bill, S. 316, would focus these enforcement actions solely on the payment card networks who set the fee rates and rules for all the participants in their networks.

While the credit card industry often claims that reform is logistically impossible and would require retailers to swipe cards twice or buy new point-of-sale systems in order to work, reality shows otherwise:

- Tax and tip amounts are both part of the data flow in card transactions, and point-of-sale systems currently used by most merchants contain the software to separately calculate sales taxes and tips. Consumers know this, as they see sales taxes and tips itemized separately on their receipts - there is no need for two swipes of a card.
- The bill provides options for merchants to transmit tax and tip data: either as part of the transaction process or as a request for reimbursement afterward. If a merchant has any difficulty identifying taxes and tips at the time of the transaction, under the bill the merchant can provide tax and tip data and request a reimbursement up to six months later. And, a merchant can choose not to provide tax and tip information at all, in which case the merchant will forgo relief from interchange fees on the tax and tip portions of the transaction.
- Visa and Mastercard have set up processes for chargebacks where sales amounts are rescinded from merchants based on suspected fraud. These chargebacks happen frequently, and they can occur weeks or even months after the transaction has settled. In the same way that the chargeback process takes money away from merchants after a transaction is settled, under this bill money could be rebated or credited to merchants after settlement to make up for the inappropriate charging of interchange fees on taxes or tips.
- Of course, card networks can also easily comply with the law and ensure that interchange fees are no longer charged on tax and tip portions of transactions by simply ending their use of percentage-based fee rates on their interchange fee schedules.

Criticisms of the legislation do not stand up to scrutiny

The credit card industry has long opposed any and all legislative efforts to reform 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. But this argument overlooks that the card networks and issuers have only achieved their lucrative card fee revenue stream because they have set up a system of centrally-fixed fees and rules that are insulated from normal marketplace competition. These fees and rules line networks' and issuers' pockets, but they make it far more costly than it needs to be for Americans to transact money.

The reform that S. 135 would provide is measured and narrowly targeted. 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 merchant point-of-sale hardware. Under the bill, Visa and Mastercard can comply simply by changing the interchange rate formulas that they establish on behalf of card-issuing banks, and the rest of the system will follow.

It is also within states' authority and jurisdiction to enact this reform. In Illinois, lawmakers passed a law that is similar to S. 135, and financial trade associations filed a lawsuit claiming that the Illinois law is preempted by federal laws regulating financial institutions. On February 10, 2026, the judge issued a decision in this case upholding the law and ruling that states are not preempted from regulating interchange fees. The court held that interchange fees are unique among financial industry fees in how they are set by card network companies on banks' behalf, and that this is not the type of fee-setting structure that fits within national banking power and that would preempt state regulation. The Illinois law is now scheduled to take effect in July and other state efforts to reform interchange fees are likely to follow.

The card networks and issuers that lucratively benefit from the current system also frequently claim that any reform will disrupt their ability to offer consumer rewards programs. This claim defies economic logic for several reasons. First, rewards are a tool that card issuers use to win cardholder business, and a card 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 at levels far below average U.S. fees continue to offer rewards. Second, U.S. banks make far more in card revenue than they pay out in rewards. For example, in 2024, according to the Consumer Financial Protection Bureau, U.S. banks paid $47.5 billion in credit card rewards but collected $191 billion in credit card interest and fees from consumers (as well as the $187 billion they collected in swipe fees from merchants). Banks simply do not need to reduce rewards to remain profitable even if their swipe fee revenue is somewhat diminished.

Finally, the credit card industry often claims that the sky will fall and the electronic payment system will fall apart if any change is made to the swipe fee status quo. But this claim is unsupported by evidence. The sky did not fall when Congress passed modest debit card reform legislation in 2010, and it has not fallen in other countries that have enacted robust swipe fee reforms. And reform is clearly needed now, as states across the country are considering legislation to provide merchants and consumers with swipe fee relief.

Conclusion

There is an urgent need to address the market distortions that result from dominant card network companies fixing the same fee rates on behalf of thousands of card-issuing banks. The system of fees and rules that Visa and Mastercard have set up is structured to insulate fee rates from normal market competition, and this has made the electronic payment system in the United States more costly, less efficient, less secure, and less fair. S. 135 would provide targeted, yet important, relief for Vermont's merchants and their customers, as would S. 316. I urge the Committee to move forward with interchange fee reform that provides critical relief to Vermont's merchants and consumers.