ELECTRONIC TRANSACTIONS ASSOCIATION
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April 1, 2025

The Honorable Ann Cummings
Chair of the Senate Committee on Finance
Vermont State Capitol
115 State St
Montpelier, VT 05633

Re: ETA Opposition to S 135

Dear Chair Cummings, Vice Chair Chittenden, 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 S 135. 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 has failed to pass their respective state legislature. Examples from other states are outlined further below. 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.

<u>Impact on Consumers and Employees</u>: Proponents of S 135 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.

- **Impact to 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 S 135 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.
- **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 separately, potentially in cash.
- Slower checkout times and reduced satisfaction, particularly for purchases with varying tax rates (e.g., groceries).

- **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 S 135 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: S 135 would hurt Vermont chartered banks and credit unions by limiting the amount they can charge to process credit and debit card transactions. A recent federal court decision affirming federal preemption for nationally chartered banks resulted in approximately 90% of credit card transactions being excluded from the scope of these legislative bills. The court held that state-chartered banks and credit unions must comply with a recent Illinois interchange prohibition law, while excluding federally chartered banks, leaving state-chartered 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 item S 135 would require entirely new technology and new separate Vermont 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 S 135 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.

Rights & Penalties: The penalties and cause of action contained in this bill are overly prescriptive and overly punitive. With approximately $52.7 trillion being transacted annually, a penalty $1,000 per transaction would add up quickly, making business operations untenable. Similarly, duties and responsibilities of payments companies are clearly laid out in business to business contracts and service agreements. Therefore, ETA believes any issues can be solved through contract negotiations, rather than through a private right of action.

As previously mentioned, all 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 Voted Against:** The Arizona House of Representatives recently rejected 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 Federally Preempted:** 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 on the basis that federal banking laws preempt the Illinois law. Based on the ruling, 90% of transactions are excluded 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 & Tennessee Study Commissions:** In 2024, a **Georgia** House of Representatives study commission, and the **Tennessee** Advisory Commission on Intergovernmental Relations (TACIR) were each tasked with studying the costs associated with interchange fees on tax portions of transactions. After thorough analysis, both the Georgia Committee and TACIR recommended reforming its vendor compensation program rather than removing interchange fees from the sales tax portion of transactions.
- **States Considering & Halting Interchange Legislation:** In 2025, similar bills were introduced in **Washington, Idaho, New Mexico, Georgia, Oklahoma, and Maryland**, all of which failed.

Conclusion: The creation of a Vermont based payment network separated from the global payment network under the requirements of S 135 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.

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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

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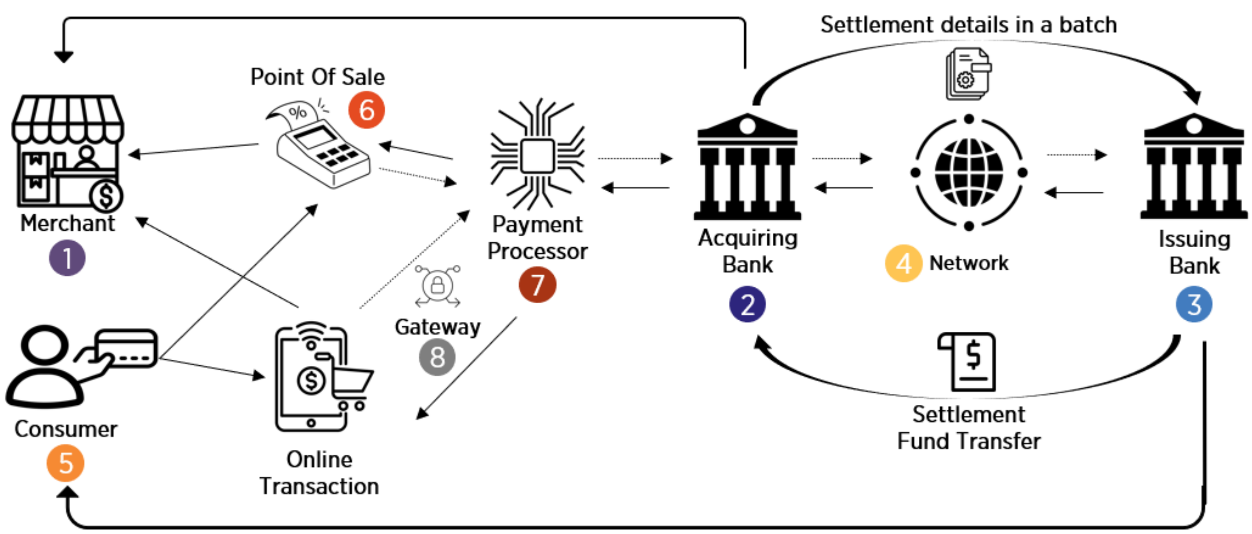
Overview of The Payments Ecosystem

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.