

HB1154\_L.003

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.HB15-1154 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, add 5-2-212.1 as  
4 follows:

5 **5-2-212.1. Interchange fees on credit card and debit card**  
6 **purchases - interim study - report - definitions - repeal.** (1) DURING  
7 THE 2015 INTERIM, THE OFFICE OF POLICY, RESEARCH, AND REGULATORY  
8 REFORM IN THE DEPARTMENT OF REGULATORY AGENCIES, IN  
9 COLLABORATION WITH THE DIVISIONS OF FINANCIAL SERVICES AND  
10 BANKING, THE DEPARTMENT OF REVENUE, AND OTHER INTERESTED  
11 PARTIES DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT  
12 OF REGULATORY AGENCIES, SHALL INVESTIGATE THE ISSUES RAISED BY  
13 THE INTRODUCED VERSION OF HOUSE BILL 15-1154, INCLUDING AT LEAST  
14 THE FOLLOWING:

15 (a) A HISTORY OF THE VENDOR EXPENSE ALLOWANCE ESTABLISHED  
16 IN SECTION 39-26-105 (1), C.R.S., INCLUDING WHEN IT WAS FIRST  
17 IMPLEMENTED, WHAT IT IS INTENDED TO COVER, AND WHAT LIMITS HAVE  
18 BEEN IMPOSED UPON IT BY STATUTE;

19 (b) THE ESTIMATED ANNUAL COST OF INTERCHANGE FEES  
20 CHARGED ON THE PORTIONS OF SALES REPRESENTING STATE AND LOCAL  
21 TAXES FOR RETAIL BUSINESSES LOCATED IN COLORADO, DIFFERENTIATED  
22 ACCORDING TO ANNUAL GROSS SALES FIGURES AS FOLLOWS:

23 (I) ZERO TO ONE MILLION DOLLARS;

24 (II) ONE MILLION ONE TO FIVE MILLION DOLLARS;

25 (III) FIVE MILLION ONE TO TEN MILLION DOLLARS; AND

26 (IV) OVER TEN MILLION DOLLARS;

27 (c) THE CURRENT RISK BORNE BY RETAILERS AND BY PAYMENT  
28 CARD NETWORKS FOR CREDIT FRAUD, TAKING INTO ACCOUNT THE  
29 PROVISIONS OF STATE AND FEDERAL STATUTES AND REGULATIONS AND OF  
30 STANDARD AGREEMENTS USED BY PAYMENT CARD NETWORKS;

31 (d) THE EFFECT OF NEW REQUIREMENTS IMPOSED BY PAYMENT  
32 PROCESSORS ON BUSINESSES TO ACCEPT EUROPAY, MASTERCARD, AND  
33 VISA (EMV) AND PAYMENT CARD INDUSTRY (PCI) SECURITY STANDARDS  
34 AND THE COST OF THESE REQUIREMENTS TO RETAILERS;

35 (e) THE ABILITY OF A PAYMENT PROCESSOR TO DERIVE TAX  
36 INFORMATION FROM A MERCHANT'S POINT-OF-SALE SYSTEM, SPECIFICALLY  
37 WITH REFERENCE TO THE INCORPORATION OF DATA LEVEL 2 AND DATA



1 LEVEL 3 PAYMENT TRANSACTIONS;  
2 (f) IDENTIFICATION OF THE STATE AND FEDERAL TAX EXEMPTIONS  
3 FOR:  
4 (I) FEDERALLY CHARTERED AND STATE-CHARTERED BANKS AND  
5 CREDIT UNIONS, INCLUDING UNRELATED BUSINESS INCOME TAX; AND  
6 (II) THE ACTIVITY OF PAYMENT PROCESSING, INCLUDING INCOME  
7 DERIVED BY COLORADO-BASED BUSINESSES FOR PAYMENT PROCESSING;  
8 (g) AN ESTIMATE OF THE TOTAL AMOUNT OF INTERCHANGE FEES  
9 PAID ON THE PORTION OF SALES ATTRIBUTABLE TO STATE AND LOCAL  
10 TAXES BY COLORADO CONSUMERS, USING AGGREGATE TAX RECEIPT  
11 INFORMATION PROVIDED BY THE DEPARTMENT OF REVENUE, BROKEN  
12 DOWN INTO THE FOLLOWING CATEGORIES:  
13 (I) STATE SALES TAXES;  
14 (II) STATE EXCISE TAXES, INCLUDING FUEL AND LIQUOR EXCISE  
15 TAXES; AND  
16 (III) LOCAL AND CITY TAXES;  
17 (h) AN ASSESSMENT OF THE RELATIVE BARGAINING POWER OF  
18 MERCHANTS, IN REGARD TO NEGOTIATION OF THE AMOUNT OF THE  
19 INTERCHANGE FEE ASSESSED ON ANY GIVEN TRANSACTION, WITH:  
20 (I) THE ISSUING BANK;  
21 (II) THE ACQUIRING BANK; AND  
22 (III) THE PAYMENT PROCESSOR; AND  
23 (i) WHETHER APPROPRIATE LEGISLATION HAS BEEN PROPOSED TO  
24 ADDRESS THE ISSUES IDENTIFIED IN CONNECTION WITH PARAGRAPHS (a) TO  
25 (h) OF THIS SUBSECTION (1).  
26 (2) THE DIRECTOR OF THE DIVISION OF POLICY, RESEARCH, AND  
27 REGULATORY REFORM:  
28 (a) SHALL REPORT THE DIRECTOR'S FINDINGS AND CONCLUSIONS  
29 ON THE ISSUES IDENTIFIED IN SUBSECTION (1) OF THIS SECTION TO THE  
30 MEMBERS OF THE HOUSE AND SENATE FINANCE COMMITTEES ON OR  
31 BEFORE OCTOBER 15, 2015; AND  
32 (b) MAY SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS TO  
33 ASSIST IN THE STUDY OF THE ISSUES AND PREPARATION OF THE REPORT  
34 PURSUANT TO THIS SECTION, BUT THE EFFECTIVENESS OF THIS SECTION IS  
35 NOT DEPENDENT UPON THE RECEIPT OF GIFTS, GRANTS, OR DONATIONS. IF  
36 NO GIFTS, GRANTS, OR DONATIONS ARE RECEIVED, THE STUDY AND REPORT  
37 SHALL BE CARRIED OUT WITHIN EXISTING APPROPRIATIONS.  
38 (3) **Definitions.** AS USED IN THIS SECTION:  
39 (a) "CREDIT CARD" MEANS:  
40 (I) ANY INSTRUMENT OR DEVICE, WHETHER KNOWN AS A CREDIT  
41 CARD, CHARGE CARD, CREDIT PLATE, COURTESY CARD, IDENTIFICATION



1 CARD, OR BY ANY OTHER NAME, ISSUED WITH OR WITHOUT A FEE BY AN  
2 ISSUER FOR THE USE OF THE CARDHOLDER IN OBTAINING MONEY, GOODS,  
3 SERVICES, OR ANYTHING ELSE OF VALUE, EITHER ON CREDIT OR IN  
4 POSSESSION OR IN CONSIDERATION OF AN UNDERTAKING OR GUARANTY BY  
5 THE ISSUER OF THE PAYMENT OF A CHECK DRAWN BY THE CARDHOLDER ON  
6 A PROMISE TO PAY IN PART OR IN FULL AT A FUTURE TIME, WHETHER ALL  
7 OR ANY PART OF THE INDEBTEDNESS REPRESENTED BY THIS PROMISE TO  
8 MAKE DEFERRED PAYMENT IS SECURED OR UNSECURED;

9 (II) ANY STORED-VALUE CARD, SMART CARD, OR OTHER  
10 INSTRUMENT OR DEVICE THAT ENABLES A PERSON TO OBTAIN GOODS,  
11 SERVICES, OR ANYTHING ELSE OF VALUE THROUGH THE USE OF VALUE  
12 STORED ON THE INSTRUMENT OR DEVICE; AND

13 (III) THE NUMBER ASSIGNED TO AN INSTRUMENT OR DEVICE  
14 DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a) EVEN IF  
15 THE PHYSICAL INSTRUMENT OR DEVICE IS NOT USED OR PRESENTED.

16 (b) "DEBIT CARD" MEANS:

17 (I) ANY INSTRUMENT OR DEVICE, WHETHER KNOWN AS A DEBIT  
18 CARD, ATM CARD, OR ELECTRONIC BENEFIT TRANSFER CARD OR ANY  
19 OTHER ACCESS INSTRUMENT OR DEVICE, OTHER THAN A CHECK, THAT IS  
20 SIGNED BY THE HOLDER OR OTHER AUTHORIZED SIGNATORY ON THE  
21 DEPOSIT ACCOUNT THAT DRAWS MONEYS FROM A DEPOSIT ACCOUNT IN  
22 ORDER TO OBTAIN MONEY, GOODS, SERVICES, OR ANYTHING ELSE OF  
23 VALUE; AND

24 (II) THE NUMBER ASSIGNED TO AN INSTRUMENT OR DEVICE  
25 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), EVEN IF THE  
26 PHYSICAL INSTRUMENT OR DEVICE IS NOT USED OR PRESENTED.

27 (c) "INTERCHANGE FEE" MEANS ANY FEE ESTABLISHED, CHARGED,  
28 OR RECEIVED BY A PAYMENT CARD NETWORK FOR THE PURPOSE OF  
29 COMPENSATING THE ISSUER FOR ITS INVOLVEMENT IN AN ELECTRONIC  
30 PAYMENT TRANSACTION. "INTERCHANGE FEE" INCLUDES ANY DISCOUNT  
31 RATE, TRANSACTION CHARGE, OR OTHER RATE, CHARGE, OR FEE IMPOSED  
32 UPON A MERCHANT OR DEDUCTED FROM A SALE THAT IS COMPLETED  
33 THROUGH USE OF A CREDIT CARD OR DEBIT CARD FOR PROCESSING OF THE  
34 TRANSACTION.

35 (d) "PAYMENT CARD NETWORK" MEANS AN ENTITY THAT,  
36 DIRECTLY OR THROUGH LICENSED MEMBERS, PROCESSORS, OR AGENTS,  
37 PROVIDES THE PROPRIETARY SERVICES, INFRASTRUCTURE, AND SOFTWARE  
38 THAT ROUTE INFORMATION NECESSARY TO CONDUCT DEBIT CARD OR  
39 CREDIT CARD TRANSACTION AUTHORIZATION, CLEARANCE, AND  
40 SETTLEMENT AND THAT A MERCHANT OR SELLER USES IN ORDER TO  
41 ACCEPT A PARTICULAR CREDIT CARD OR DEBIT CARD AS A FORM OF



1 PAYMENT.

2 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

3 **SECTION 2. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety."

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