



**TESTIMONY OF BRENNAN DUCKETT
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BEFORE THE RHODE ISLAND SENATE COMMITTEE ON COMMERCE
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Thank you for the opportunity to testify in support of S. 2344, legislation that would rein in excessive credit card interchange fees that are squeezing restaurant margins and inflating retail prices for consumers. The bill would provide small business restaurant owners and consumers in Rhode Island with much-needed relief from anticompetitive interchange fees that are costing the restaurant industry and their customers in the state more than \$13 million annually 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.

This issue is a priority for the National Restaurant Association because the restaurant industry is an engine of every local economy. In Rhode Island, there are more than three thousand restaurants that employ fifty-seven thousand people and contributed more than \$1 billion in local and state taxes in 2025.

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 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 every one of the hundreds of banks that issue their cards. The fee rates are typically established with a percentage-based fee component plus a flat fee component (e.g., 2.35% + \$0.10 per transaction). Every time a customer swipes a credit card, the restaurant owner accepting the payment must pay that 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 restaurant owners 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 thousands of 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 set their own interchange fee rates, they become insulated from fair market competition.

In addition to the interchange rates that are established by the two card network companies on behalf of their card-issuing banks, Visa and Mastercard also charge separate network fees for the millions of credit card transactions that take place every day and keep those network fees for themselves. From a macroeconomic perspective, business owners paid \$118.8 billion in swipe fees on Visa- and Mastercard-branded credit card transactions alone in 2025, and a total of more than \$198 billion in processing fees for all credit and debit card transactions that same year.¹ In testimony at a U.S. Senate Judiciary Committee hearing in 2024, representatives from Visa and Mastercard said that their profit margins currently exceed 50%, and giant money center banks have roughly 30% profit margins.²

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 \$1.5 million in sales per year, while 42% of operators reported that they were not profitable in 2025.

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. While 83% of all restaurant transactions today are made by credit or debit card, accepting card payments is one of the highest costs borne by an operator, often only behind only labor and food. Restaurants have already been struggling as food and labor costs combined have soared 35% in the last six years on top of already thin margins, but credit card fees have made things even more challenging. More than 8 in 10 operators reported some strain from rising credit and debit card processing fees. In fact,

¹ Nilson Report

² <https://merchantspaymentscoalition.com/big-bank-profits-rising-merchants-and-consumers-seek-relief-credit-card-swipe-fees>

card fees act as an inflation multiplier for both the restaurant owner and consumers, given that they are typically charged as a percentage of every single transaction. So, as costs and prices go up, more gets collected in fees. But this fact doesn't hurt everyone in the U.S. economy. Visa's last CEO publicly deemed inflation as a "positive" for their business.³

To make matters worse, restaurant operators and other business owners have no ability to negotiate the credit card rates with Visa and Mastercard, nor 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 because the restaurant industry is so competitive, restaurants 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 fee 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 takeout and delivery, 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 chargebacks associated with CNP transactions, even if the merchant has proof they are not at fault.

According to Association data, a majority of adults (61%) 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 these card processing 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 2025, swipe fees cost the average American family more than \$1,200 each year.⁴ Ultimately, excessive swipe fees that act

³ 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/>

⁴ <https://merchantspaymentscoalition.com/credit-and-debit-card-swipe-fees-reach-record-19825-billion-president-and-congress-call-action>

as an inflation multiplier are squeezing both restaurant operators and their customers, and meaningful reform to the payments ecosystem is long overdue.

Benefits of S. 2344

The restaurant industry is one of the main engines of the Rhode Island economy. Providing over 57,000 jobs, it is the state's second largest private sector employer, and it generated over \$5.1 billion in sales in 2025.⁵ This also means that Rhode Island restaurants 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 to either the state or restaurant employees. But interchange fees are still charged on that amount, so the bottom line is that those fees are coming out of restaurant operator's 3-5% profit.

Thankfully, Senators Felag, Burke, Tikoian, Murray, Lauria, Vargas, and DiMario introduced S. 2344 to address some of these concerns. In short, the legislation would prohibit the collection of interchange fees on the sales tax and tip portions of every electronic payment transaction by directing payment card networks like Visa and Mastercard to either:

1. Deduct the amount of any tax and tip imposed from the calculation of interchange fees specific to each electronic payment transaction at the time of settlement; or
2. Rebate an amount of interchange fee proportionate to the amount attributable to the tax and tip.

S. 2344 is similar in nature to the *Interchange Fee Prohibition Act* (IFPA), which Illinois passed in 2024 and will prohibit interchange fees both on the sales tax and the tip portion of card transactions beginning July 1, 2026. While financial industry trade associations have argued in court that the Illinois law is preempted by federal law, in February the U.S. District Court for the Northern District of Illinois issued a decision⁶ rejecting the argument that preemption should apply to interchange fees set by payment card networks like Visa and Mastercard. In fact, the judge presiding over the case ruled that because interchange fees are set by card networks and merely collected by card-issuing banks and credit unions, all parties on the financial side of the payments ecosystem are subject to the law's interchange fee restrictions and its enforcement provisions:

“The payment card networks built this ecosystem, and the payment card networks set these fees,” Judge Kendall wrote. “To claim that the IFPA interchange fee provision impermissibly interferes with the power set out in (the National Bank Act) — which

⁵ <https://restaurant.org/getmedia/2c4388f8-d179-4f26-a0e0-742d78aa00dd/rhode-island-state-fact-sheet-2025.pdf>

⁶ <https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:2024cv07307/463030/115/>

‘should be arrived at by each bank on a competitive basis and not on the basis of any agreement’ — does not add up in the face of that reality.”

In other words, the Judge ruled that because interchange fees are centrally fixed by payment card networks on behalf of the thousands of banks that issue cards with Visa and Mastercard’s logos on them, they fall outside the scope of the banking practices covered by the National Banking Act. With this ruling, state legislatures have all the legal cover they need in this thorough and well-reasoned District Court decision to pursue IFPA-like models, and S. 2344 is exactly that.

Contrary to the “credit card chaos” arguments being made by opponents of the bill, this legislation is a workable solution for both merchants and credit card companies. Nearly all modern point-of-sale systems already separately calculate and identify taxes and gratuities on a customer’s receipt, and operators in the state are effectively required to do so by law. They submit one settled transaction after the tax and tip are entered, and the data fields already flag tax and tips as separate line items so that operators can fulfill their legal obligations of remitting sales taxes to the state as well as tips to their employees. For the smaller number of restaurants using older systems, the legislation allows operators to submit documentation and receive a refund for interchange fees tied to gratuities—a straightforward process that is similar to today’s chargeback procedures. Card companies could also comply by updating their fee schedules to exclude tips or by moving away from percentage-based interchange fees altogether.

The Association’s economists estimate that S. 2344 would save the average fullservice restaurant in Rhode Island at least \$8,900 in card processing fees per year – this is meaningful relief for operators who averaged only a \$45,000 profit margin nationwide in 2024. For Rhode Island operators with multiple restaurants, the annual savings would be much higher. Overall, we estimate this bill would save the Rhode Island restaurant industry more than \$13 million in fees on an annual basis. These are significant sums that could be kept in the state stimulating local economic activity, as opposed to sending these dollars to global card networks and giant Wall Street banks. The profits of local business owners will stay in their community, contributing 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.

In sum, S. 2344 serves as effective and much-needed measure to help restaurant owners mitigate some of their losses caused by the anticompetitive practices of the Visa-Mastercard duopoly, and this type of measure has been upheld in federal court. Most importantly, this legislation would ultimately save Rhode Island businesses and consumers 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 Rhode Island, I urge the Senate Committee on Commerce to pass S. 2344.