April 1, 2025
The Honorable Elizabeth Ortega
Member, California State Assembly
1021 O Street, Suite 5120
Sacramento, CA 95814

Re: **OPPOSE – AB 1065 (Ortega): Credit Card Transaction Fees: Tax Payments: Consumer Inflation Reduction and Tax Fairness Act**

Dear Assembly Member Ortega:

The organizations represented above must respectfully oppose AB 1065 (Ortega), a measure that poses serious unintended consequences for California's consumers, small businesses, and community financial institutions. While the bill purports to limit interchange fees to help merchants, in practice it would only benefit a narrow group of large, out-of-state retailers—at the expense of those who can least afford it.

At a time when our economy is already burdened by inflationary pressures, rising costs, and increasing financial uncertainty for working families and entrepreneurs, AB 1065 threatens to disrupt a delicate ecosystem that supports access to affordable banking, fraud protection, and secure, convenient payments.

Disproportionate Harm to Small Businesses and Local Merchants

Small businesses are the backbone of California's economy, and yet they would be among the hardest hit by AB 1065. While big box retailers have the infrastructure and in-house legal and compliance teams to absorb and navigate complex changes to payment processing, small businesses would face new administrative challenges, higher compliance costs, and fewer tools to compete. This bill would not reduce their costs—it would increase them.

If passed, AB 1065 will require small businesses to perform hardware and software updates to their payment systems that are not only complicated but, in many cases, complicated and unrealistic. Specifically, it would mandate the development of two new auditable data fields—

one to isolate tax and one for gratuity—despite the fact that today's payments system infrastructure simply does not support this functionality. To implement such changes, a brand-new global payment standard would be required through the International Organization for Standardization (ISO)—a process that can take years to develop and adopt, assuming consensus is even reached. In reality, the standard-setting body is not obligated to comply with a single state's legislation, and the resulting uncertainty would make implementation of AB 1065 dependent on an organization outside the state legislature's control. Even if the technology were eventually developed, businesses would have to replace their entire point-of-sale systems, retrain employees, and renegotiate processing contracts—an expensive and disruptive process that would disproportionately burden small businesses while large national chains could more easily absorb the cost.

The inability to separate tips and taxes from the purchase price could even force consumers to pay cash for those portions of the transaction, reducing income for tipped workers. This is particularly troubling as cash continues to decline in popularity, making it harder for service workers to receive their full compensation. During an affordability crisis, we should be supporting small businesses and their employees—not introducing policies that reduce payment options and lower take-home pay.

Consumer Harm

Interchange fees are a cost of doing business that merchants pay for the secure processing of credit and debit card transactions. These fees support a range of consumer services, including low-cost checking accounts, credit card rewards, and fraud protection. When this critical revenue stream is disrupted—as AB 1065 proposes—financial institutions will have to create other ways to help offset the cost of these programs and fraud prevention measures.

History has shown us the consequences. After the 2011 Durbin Amendment capped debit card interchange fees, consumers didn't see lower prices. Instead, fee-free checking accounts dropped dramatically, debit card rewards were virtually eliminated, and financial institutions curtailed services that lower-income customers rely on. While the number of unbanked Californian's are at the lowest level since this metric has been tracked, according to the FDIC, we risk repeating those same mistakes—this time with even broader consequences for everyday Californians.

Weakens Consumer Fraud Protections

Interchange fees fund far more than transaction processing—they support the entire electronic payment ecosystem, including fraud prevention, cybersecurity infrastructure, and real-time authorization systems. Financial institutions and card networks assume all the financial risk on every transaction, in the full amount of the transaction, which includes the product price, tax, and tip. Merchants, by contrast, enjoy the benefits of a secure system while carrying zero liability for fraud in most card-present transactions. Taxes and tips are part of the total transaction amount and are processed using the same infrastructure and security protocols as the rest of the purchase. Attempting to carve out parts of a transaction for fee exemption ignores the operational reality of how digital payments work. Fraud, chargebacks, and reversals apply to the entire transaction—not just the merchandise subtotal.

Restricting interchange fees on only certain parts of a transaction would not reduce costs. Instead, it would shift the burden elsewhere—potentially increasing fixed merchant fees, reducing fraud protection, or even passing on new charges to consumers.

Interchange Fees Have Not Increased

Despite claims from the proponents, interchange fees have remained relatively flat over time, even as inflation, labor costs, and fraud risks have increased. While total interchange revenue has risen due to the growth of digital payments, this is largely a function of higher transaction volume, not higher rates. The average interchange fee has remained around 2 percent over the past decade. If some merchants are paying more in swipe fees, it's largely because their sales prices have increased, not because the rate has changed. In fact, card payments are often cheaper than handling cash—a recent study by The IHL Group found that the cost of accepting cash averages 9.1 percent for businesses, compared to the much lower cost of accepting credit cards.

AB 1065 Will Not Reduce Inflation

Proponents of AB 1065 claim it would reduce prices and help fight inflation. But this is a myth. Interchange fees are not driving inflation—supply chain costs, labor shortages, and macroeconomic factors are. In fact, over the past seven years, interchange fees have remained steady while prices have gone up.

This bill does nothing to address the root causes of inflation. International experience clearly shows that capping interchange fees does not lead to lower prices for consumers. In Australia, after the Reserve Bank capped interchange fees in the early 2000s, a government-commissioned study found that retail prices did not fall. Instead, banks eliminated or significantly reduced credit card rewards programs and increased cardholder fees to compensate for lost revenue. According to the Reserve Bank of Australia, annual fees on credit cards increased by 22%, while consumers saw no statistically significant reduction in prices at the point of sale.

Similarly, in the European Union, following the 2015 Interchange Fee Regulation that capped fees at 0.3% for credit cards and 0.2% for debit cards, research from the European Commission found no evidence that merchants passed savings on to consumers. Instead, consumers lost access to many card benefits, and banks across the EU reduced or eliminated rewards programs entirely. Additionally, several EU banks began introducing new charges on checking accounts to recoup lost revenue.

In these countries, capping interchange fees doesn't lower prices—it just shifts costs onto consumers, reduces financial access, and weakens the benefits that cardholders rely on.

Small Businesses Are Not Exploited by Interchange Fees

We reject the false narrative that interchange fees exploit small businesses. Small businesses benefit from digital payments, which reduce theft, minimize fraud, and increase customer spending. Digital payments offer more than just convenience—they offer real cost savings for businesses. Cash handling can cost merchants between 4.7% and 15.5% depending on the industry. Credit card processing not only saves money, but it also reduces risk, automates reconciliation, and attracts more customers. Restricting interchange fees in the manner proposed by AB 1065 would take us backward, penalizing the very systems that have modernized commerce and helped small businesses grow. A well-regulated interchange system ensures that merchants of all sizes have access to secure and reliable payment processing.

Merchants already have tools to manage these costs. Many offer cash discounts or set purchase minimums for card use. They can negotiate with payment processors—of which there are hundreds—to get better pricing or shift to tap-to-pay and debit card incentives to reduce fraud risks and costs. The payment processing market is highly competitive, giving businesses flexibility to choose pricing models that work for them. Interchange fees help maintain that system and provide essential infrastructure that merchants depend on.

Disproportionately Hurts California Businesses Over Out-of-State Businesses.

Perhaps most critically, AB 1065 is unlikely to survive legal scrutiny due to conflict preemption under the National Bank Act and related federal laws. Courts have consistently ruled that states cannot interfere with how national banks process payments or assess fees. In December 2024, a federal judge issued a preliminary injunction against the Illinois Interchange Fee Prohibition Act (IFPA), citing its direct conflict with federal banking laws. AB 1065 follows a nearly identical structure and would face similar legal challenges—resulting in costly litigation for California with very little chance of success.

If enacted, this measure will apply to state-chartered financial institutions, placing California's community banks and credit unions at a significant competitive disadvantage compared to federally chartered banks. Banks and credit unions have a choice—they can choose to charter as a state bank, regulated by the California Department of Financial Protection and Innovation, or they can choose to be federally chartered. AB 1065 erodes the value of the state charter by imposing an impossible compliance obligation unevenly on financial institutions that have elected to call California their home. At any time, those institutions can decide to charter in a neighboring state, or switch to a federal charter. In doing so, this measure threatens to weaken the state's banking system.

For these reasons we must respectfully oppose your AB 1065. This measure is deeply flawed. It is technically unworkable, legally questionable, economically harmful, and fundamentally misguided. It would force costly upgrades on small businesses, disrupt the secure payments infrastructure that consumers rely on, and deliver no measurable benefit to the public.

Sincerely,

California Bankers Association
America's Credit Unions
American Express
American Financial Services Association
American Transaction Processors Coalition
California Business Roundtable
California Community Banking Network
California Credit Union League
Capital One
Card Coalition
Defense Credit Union Council
Discover
Electronic Payments Coalition
Electronic Transactions Association
Mastercard
Orange County Business Council
Silicon Valley Leadership Group
TechNet
Visa

Cc: All Members, Assembly Committee on Judiciary
Shiran Zohar, Chief Counsel, Assembly Committee on Judiciary
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