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Testimony of Nate Cloutier

Before the Joint Standing Committee on Health Coverage, Insurance and Financial Services
March 25, 2025

In Support of LD 151, “An Act to Allow Businesses to Impose a Surcharge on Credit Card and Debit Card Transactions”

Senator Bailey, Representative Gramlich, and distinguished members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, my name is Nate Cloutier, and I am here today on behalf of HospitalityMaine, representing Maine’s restaurant and lodging industries. I am also testifying on behalf of the Maine Tourism Association (MTA). MTA has been promoting Maine and supporting members in every type of tourism business, such as lodging, restaurants, camps, campgrounds, retail, guides, tour operators, amusements, and historical and cultural attractions for over 100 years. HospitalityMaine and the Maine Tourism Association support LD 151, “An Act to Allow Businesses to Impose a Surcharge on Credit Card and Debit Card Transactions.”

We’d like to thank Representative Tuell for submitting this legislation to support small businesses. Maine often prides itself on living up to our state motto, “Dirigo,” meaning “I lead.” However, when it comes to permitting businesses to impose a surcharge to help cover the rising costs of credit and debit card processing (swipe fees), we currently lag behind 46 other states. This legislation would bring Maine’s practices into alignment with the rest of the country and provide a source of relief for small businesses struggling with increasing operational costs.

In most restaurants, swipe fees represent the third highest cost—trailing only food and labor. Over the last five years, these two expenses have risen on average by 30-40%¹, forcing businesses to raise menu prices just to stay afloat. Meanwhile, swipe fees themselves typically range from 2% to 4% per transaction and have more than doubled in the past decade. In 2023, they cost American businesses

¹ Inflation. (n.d.). NRA. <https://restaurant.org/research-and-media/research/inflation/#:~:text=Inflation%20is%20Straining%20Restaurant%20Operations,5%25%20pre%2Dtax%20margin.>

over \$172 billion—among the highest in the world. Compounding this challenge is the fact that two credit card companies control 80% of the processing market, leaving businesses with minimal to no leverage to negotiate more favorable terms. Restaurant closures have dominated the news in recent months, with many pointing to food and labor costs as predominate factors as reasons to close the business.

For small and medium-sized hospitality and tourism businesses operating on margins of just 3-5%, the ability to impose a modest surcharge can be a vital cost-offsetting tool. These savings, which can amount to thousands, or even hundreds of thousands of dollars annually, could be reinvested in employees through higher wages and enhanced benefits, as well as help stabilize or lower prices for consumers.

It is also important to note that swipe fees are charged on the entire transaction amount, including sales tax and tips. It is estimated that Maine businesses pay more than \$25.5 million² in swipe fees on sales tax alone—essentially creating a “tax on a tax.” Notably, current law exempts the State of Maine and the University of Maine system from the prohibition on surcharges.

We support clear safeguards in LD 151 to protect consumers, including requirements for transparent, upfront disclosure of any surcharge. Given that Maine is an outlier on this issue, there is no evidence to suggest that surcharges, which are already permitted in most other states, would uniquely harm Maine consumers. Moreover, these surcharges would be entirely optional for businesses, allowing each establishment to decide whether the practice suits its operations. We also support a cap on surcharges—whether at the average swipe fee (3%) or the actual processing cost—to provide additional consumer protections.

While broader reforms are undoubtedly needed to address the market dominance of the two major credit card companies, Maine businesses deserve the same opportunity to mitigate swipe fees as their peers in 46 other states, State of Maine Agencies, and UMaine System, all of which have seen no dire consequences.

For these reasons, we respectfully urge you to vote “Ought to Pass” on LD 151. Thank you for your time and consideration, and I would be happy to answer any questions you may have.

² CMSPI Global. (2024, October 16). *How Much Interchange was Paid on Sales Tax in the U.S.?* <https://cmspi.com/how-much-interchange-was-paid-on-sales-tax-in-the-us/#:~:text=CMSPI%20estimates%20that%20U.S.%20merchants%20paid%20nearly%20%248, and%20diesel%20excise%20taxes%2C%20and%20alcohol%20excise%20taxes.>