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MEMORANDUM

To: House Committee on Financial Institutions and Pensions
From: Office of Revisor of Statutes
Date: March 3, 2025
Subject: Bill Brief for HB 2089 (As Introduced)

House Bill 2089 enacts the consumer inflation reduction and tax fairness act and exempts the portion of a credit card transaction constituting a tax or gratuity from assessment of the fee charged by the card issuer.

Section 1 provides that sections 1 through 5 may be cited as the consumer inflation reduction and tax fairness act. Section 2 provides definitions to be used in this act.

Section 3 exempts the portion of a credit card transaction constituting a tax or gratuity from assessment of the fee charged by the card issuer. Subsection (a) provides that an issuer, payment card network, acquirer bank or processor shall not receive or charge a merchant any interchange fee on the tax amount or gratuity amount of an electronic payment transaction if the merchant informs the acquirer bank or its designee of the tax or gratuity amount as part of the authorization or settlement process for the electronic payment transaction. Except as provided by subsection (b), the merchant shall transmit the tax or gratuity amount data as part of the authorization or settlement process to avoid being charged interchange fees on the tax or gratuity amount of an electronic payment transaction. Alternatively, subsection (b) provides that the merchant may submit tax documentation for the electronic payment transaction to the acquirer bank or its designee not later than 180 days after the date of the electronic payment transaction. Within 30 days after the merchant submits such tax documentation, the issuer shall credit to the merchant the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction. Subsection (c) provides that this section shall not create liability for a payment card network regarding the accuracy of the tax or gratuity data reported by the merchant.

Section 4 makes it unlawful for an issuer, a payment card network, an acquirer bank or a processor that has received tax or gratuity amount data to willfully, with the intent to circumvent

the provisions of section 3, alter or manipulate the computation and imposition of interchange fees charged to a merchant by increasing the rate or amount of such fees applicable to or imposed upon the portion of an electronic payment transaction not attributable to such taxes or gratuities. An issuer, payment card network, acquirer bank or processor that violates this section shall be liable to the aggrieved merchant, state or county for the payment of a civil penalty, recoverable in an individual action, including an action brought by the attorney general or a county or district attorney, in a sum set by the court of up to $1,000 for each electronic payment transaction involving interchange fees charged unlawfully as the result of such violation. Such civil penalty shall be in addition to any other relief that may be granted, including, but not limited to, the refund of unlawful fees or other damages.

The issuer of the credit or debit card involved in an electronic payment transaction affected by a violation of section 3 shall refund the merchant the interchange fee calculated on the tax or gratuity amount relative to such electronic payment transaction and shall be liable to the merchant for any such interchange fee amount. The attorney general or the county or district attorney is authorized to sue for and collect reasonable expenses and investigation fees as determined by the court. Civil penalties or contempt penalties sued for and recovered by the attorney general shall be paid into the general fund of the state, and such penalties sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated. In any action brought by the attorney general or county or district attorney pursuant to this act, such attorney may enforce the provisions of this paragraph and, as ordered by the court, any such interchange fee collected from the issuer shall be paid over to the merchant. The attorney general or a county or district attorney may bring an action to enjoin or obtain a restraining order against an issuer, payment card network, acquirer bank or processor that has violated, is violating or is likely to violate this act.

Section 5 provides that this act is severable and directs that if any provision or clause of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application.

The bill would take effect from and after publication in the statute book, July 1, 2025.