KANSAS BANKERS ASSOCIATION

Date: **March 3, 2025**

To: **House Committee on Financial Institutions and Pensions**
Representative Nick Hoheisel, Chair

From: **Alex Orel, Senior Vice President, Government Relations, KBA**

Re: **Opposition Testimony for HB 2089**

Mr. Chair and committee members, I am Alex Orel on behalf of the Kansas Bankers Association (KBA). It is also my pleasure to introduce Kelly VanZwoll, Vice President – Government Relations and J.W. Wells, KBA's Ag Bankers Division Coordinator & Government Relations Assistant. We look forward to being a resource for you and the committee as you consider financial related issues these last few weeks of the session. Thank you for the opportunity to submit opposition testimony on HB 2089 and share our concerns.

Kansas Bankers Association Background Information:

The KBA, founded in 1887, is a voluntary, non-profit trade association governed by its membership. The KBA is headquartered in Topeka, Kansas, and is led by our 24-member board of directors. The KBA staff, which President/CEO Doug Wareham leads, includes 42 professionals, including 15 attorneys licensed in 5 states, that provide services to Kansas bankers ranging from legislative advocacy to educational training to insurance services to legal and regulatory compliance support. Our mission statement is:

"The Kansas Bankers Association strengthens and supports the Kansas banking industry by advocating for sound financial policies, promoting innovation, and fostering economic growth across the state to ensure a vibrant financial future for all Kansans."

KBA's membership includes 98% of the headquartered banks in Kansas. Our membership also includes 20 out-of-state commercial banks operating in Kansas. Our member banks employ more than 21,000 Kansans that provide financial services in every county across the state. While our member banks range in assets from the smallest in our state to the largest in our state, each member bank that belongs to the KBA has one vote on policy positions adopted by either our general membership or our Board of Directors. One member, one vote.

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HB 2089—Opposition Testimony

HB 2089, prohibiting interchange fees on sales tax and gratuity in electronic transactions, mirrors proposals already under federal litigation—most notably Illinois' Interchange Fee Prohibition Act (IFPA). Passing a Kansas version now would expose Kansas to legal liability and financial risk, with no clear benefit to the state or its citizens.

On December 20, 2024, a federal judge in the Northern District of Illinois issued a preliminary injunction against the IFPA, finding it likely violates the National Bank Act and is preempted by federal law. On February 6, 2025, the injunction expanded to out-of-state banks, yet in-state banks remain subject to it—creating an uneven playing field. The U.S. Office of the Comptroller of the Currency stated that the Illinois' law as "ill-conceived, highly unusual, and largely unworkable," warning it could fracture the national payments system and increase fraud. With litigation ongoing why would Kansas adopt policy courts are dismantling? Over 30 states rejected similar measures in 15 years; Illinois' budget inclusion of this proposal is the outlier, and it's failing. Adopting HB 2089 would invite lawsuits from banks, credit unions, and federal regulators, draining resources to defend a law likely to be struck down.

Beyond the courtroom, HB 2089 is questionable policy. Interchange fees—averaging 1.8%—fund a secure and efficient payments system. For a $100 transaction with 6.5% tax, the fee on the tax is just $0.12, supporting fraud prevention and credit risk borne by issuers, not merchants. No technology exists to split taxes or tips at the point of sale. Merchants would face dual transactions or costly system overhauls, risking consumer privacy via data-sharing mandates.

Restaurants suffer too—credit card tips outpace cash, but HB 2089 could force cash payments, hiking theft and fraud risks while slashing efficiency. Interchange rates have held steady at 1.8% for a decade, despite rising sales. Cash costs more—9.1% of receipts versus 1-3% for cards—yet merchants prefer electronic payments' security. Nearly 30 states offer vendor discounts for tax collection; Kansas could expand this instead of disrupting a system that currently works.

Other opponents will detail the operational chaos—billions of transactions needing new systems, unfeasible 180-day compliance, and competitive harm to Kansas communities. I'll leave specifics to them, but the core issue is clear: HB 2089 is a solution in search of a problem, already faltering in federal court.

HB 2089 risks litigation and would destabilizes a payments system critical to our economy—all while Illinois' litigation unravels. Thank you for allowing us to express our concerns today and if HB 2089, or amendments similar to the proposal are proposed, we hope you consider opposing those efforts.

Thank you for the opportunity to provide testimony and if you have questions or require additional information later, please get in touch with me at aorel@ksbankers.com or (785) 232-3444.