



## Senate Bill 2217

Presented by: Barry Haugen  
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Before: House Finance and Taxation Committee  
Representative Craig Headland, Chairman

Date: March 7, 2023

Chairman Headland and members of the House Finance and Taxation Committee (Committee), my name is Barry Haugen, and I am President of the Independent Community Banks of North Dakota (ICBND). ICBND membership totals over 50 independent community banks throughout our state. In addition, ICBND's sister company, ICB Services, Inc., administers a credit card program primarily for smaller banks that wouldn't otherwise be able to economically offer a credit card program of their own. Angie Olson is the Director of Card Services and is also here to testify in opposition.

ICBND opposes SB 2217 and requests a "Do Not Pass" recommendation from the Committee. Similar legislation has been carefully considered nearly 50 times since 2006 in 29 states and has been rejected including just last week in Idaho and Georgia.

Our member banks and the community banking industry in North Dakota favor a robust electronic payments environment and we have concerns that this legislation would disrupt the ease and convenience of utilizing credit and debit cards for payment purposes. Senate Bill 2217 would prohibit financial institutions from charging an interchange fee on the tax or fee portion of credit and debit card transactions. Interchange of course is part of the fee merchants pay to transmit their payments electronically. This is a cost of doing business for merchants for accepting debit or credit cards which is completely voluntary by the merchant. They don't have to accept credit or debit cards but there are clearly advantages to the merchant for doing so including:

- Accepting cards increases sales.
- Unlike checks, electronic transactions guarantee merchants are paid for purchases made. And in a very timely way.
- Avoids risks and time of cash handling processes.
- Card transactions save consumers and retailers valuable time. I think we can all say that at one time or another we've been annoyed when a person checking out in front of us writes a check or pays with cash - it's slow.
- Consumers increasingly desire to use their card payment options.

So let me touch on some reasons this proposal doesn't work:

- First, the systems just don't support it – when a retailer makes a sale using a customer's payment card, the systems that process that transaction recognize only the final purchase amount. The payments system infrastructure does not support a system where multiple amounts (taxes in this case) can be excluded from the interchange fee.
- New systems that would be required will most certainly be costly to business – because the structure to support this proposal doesn't exist, it would impose severe and costly burdens on all businesses, including retailers and most certainly consumers.
- Cardholders' privacy would be placed at risk. In order to track sales tax, payment companies would have to track SKU-level data from every purchase. They would know exactly what customers buy, where and how often.
- Fraud and credit risks remain – the financial institution must advance the total funds including the tax portion to the retailer whether the transaction is collectible or not.
- We think it could hurt small retailers. Merchants will need specialized terminals and software to itemize and communicate segmented data to the card networks at the time of the sale. Small retailers may not have sufficient volume to offset the costs the new system would impose.
- These increased costs associated with the requirements imposed by this legislation could lead small businesses to reconsider accepting electronic payments which would reduce the payment options for consumers.
- We believe consumers would lose convenience. If this bill passes, the best solution for the problems created may be to require consumers to pay in two transactions – one for the sale of the product or service and another for the tax portion of the sale with cash or check.
  - It seems unlikely that the electronic payments system would process a component of a sale for which they receive no compensation.
  - This seems very problematic for the consumer.

There are a number of questions to be answered at this point as to how new systems would work that could be harmful to consumers and the use of credit and debit cards. The bill does not take into account out-of-state merchants who are doing business in North Dakota. Will they have the burden of changing their systems to accommodate this stand-alone law. And how would this affect on-line purchases?

To conclude, if passed this bill would make North Dakota an island in the global payments ecosystem. The infrastructure that this bill would require does not exist and it is uncertain if the many businesses involved in the electronic transfer of money, many of which are not located here, would even be required to support the requirements of North Dakota law. And if so, at what cost? With all the different tax iterations that exist, implementation of this bill would be complex at best.

ICBND respectfully requests you give Senate Bill 2217 a "do not pass" recommendation. Thank you!