

Policy and Guidelines For Electronic Commerce

Office of the State Controller (OSC)		Effective Date: August 16, 2000 Revision Date: October 1, 2005
Policy Area: Electronic Commerce	Title: Charging Transaction Fees	

Authority: Session Law 1999-434, Senate Bill 222, ratified in July 1999 amended various statutes, authorizing state government agencies to maximize the acceptance of electronic payments, a term which includes credit / debit cards (merchant cards) and electronic fund transfer (EFT). Electronic payments involve both inbound and outbound flows of funds. The primary statutes pertaining to the utilization of electronic payments for State agencies include: G.S. 147-86.10; G.S. 147-86.11(h); G.S. 147-86.20; G.S. 147-86.22; and G.S. 143B-426.40G(a).

Statutes authorizing the Office of the State Controller to issue policies regarding electronic payments include G.S. 143B-426.39(1) and (5); G.S. 147-86.11(a); and G.S. 147-86.22(b).

G.S. 66-58.12 (Article 11A. E-Commerce in Government), as amended June 16, 2005, specifies the conditions upon which fees may be charged for electronic transactions, including those initiated through the Internet.

Program Administration: The State of North Carolina business environment includes all agencies, institutions, departments, bureaus, boards, commissions, and other entities subject to the Cash Management Law, as specified in G.S. 147-86.10. Although state agencies offer diverse services, North Carolina intends to use a statewide enterprise approach for the utilization of electronic payments.

Statutory Requirements:

G.S. 147-86.22(b) states in part, "A debtor who pays by electronic payment may be required to pay any fee or charge associated with the use of electronic payment..."

G.S. 66-58.12 states in part, "An agency may charge a fee to cover its cost of permitting a person to complete a transaction through the World Wide Web or other means of electronic access. The fee may be applied on a per transaction basis and may be calculated either as a flat fee or a percentage fee, as determined under an agreement between a person and a public agency. The fee may be collected by the agency or by its third party agent. The fee imposed must be approved by the Office of State Budget and Management, in consultation with the State Chief Information Officer and the Joint Legislative Commission on Governmental Operations. The revenue derived from the fee must be credited to a non-reverting agency reserve account. The funds in the account may be expended only for e-commerce initiatives and projects approved by the State Chief Information officer, in consultation with the Joint Legislative Oversight Committee on Information Technology..."

Policy: All state entities desiring to impose a transaction fee must comply with the following requirements:

- All agencies must adhere to the policies established by the Office of State Budget and Management (OSBM) and the Office of Information Technology Services.

- The agency must request the establishment of a special fund budget code by OSBM and OSC. All transaction fees collected are to be recorded separately from the revenue being collected, with the transaction fees being deposited to the special fund budget code.
- Funds deposited to the special fund budget code may be used only for e-commerce initiatives and projects, to include any third-party related fees and merchant card processing services.
- The practice of charging transactions fees shall not conflict with any merchant card associations' Rules. Notwithstanding that the fee revenue may be use to pay for merchant card processing services, all fees charged are for the conducting of an electronic transaction, not for the utilization of a merchant card.
- Fees charged under this statute pertain only to obtaining electronic access, which includes the Internet, voice response unit. Electronic access does not include mail orders or telephone orders, commonly referred to as MOTO. Neither does it include the acceptance of a face-to-face merchant card transaction.
- The notice must be provided to the consumer advising of the fee, before the payment is effected.