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Last week, there was a question about whether the federal Fair Labor Standards Act prohibited an employer from deducting a credit card transaction fee from the tips that an employee receives. The answer is no. Although not explicitly addressed in the FLSA or the related rules, the U.S. Dept. of Labor's Field Operations Handbook ([available here](#)) provides that:

“When tips are charged to credit cards, the employer may reduce the amount of tips paid to the employee by the percentage charged by the credit card company (i.e., transactional fee). However, the employer cannot reduce the amount of tips paid to the employee by any amount greater than the transactional fee. For example, where a credit card company charges an employer 3 percent on all sales charged to its credit service, the employer may pay the employee 97 percent of the tips without violating FLSA.”

Thus, the language in S.23, which provides that “An employer that permits patrons to pay tips by credit card shall pay an employee the full amount of the tip that the customer indicated, **without any deductions for credit card processing fees or costs that may be charged to the employer by the credit card company**”, would establish a higher standard than is required under federal law.

Please let me know if you have any questions.