

Bill as Introduced

HB 1243 - AS INTRODUCED

2010 SESSION

10-2634
08/03

HOUSE BILL **1243**

AN ACT relative to automatic teller machine card overdraft fees.

SPONSORS: Rep. Butler, Carr 1

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill requires written consent by a consumer before overdraft fees may be charged by a bank.

This bill also requires banks to notify a consumer if his or her purchase or withdrawal will cause an overdraft.

Explanation: Matter added to current law appears in *bold italics*.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to automatic teller machine card overdraft fees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 When Bank May Charge Customer's Account; Automatic Teller Machine Cards. RSA 382-A:4-
2 401(a) is repealed and reenacted to read as follows:

3 (a)(1) A bank may charge against the account of a customer an item that is properly
4 payable from the account even though the charge creates an overdraft. An item is properly payable
5 if it is authorized by the customer and is in accordance with any agreement between the customer
6 and bank.

7 (2) In the case of purchase or withdrawals made with an automatic teller machine
8 card, a bank may charge a fee for an overdraft caused by a purchase or withdrawal only if the bank
9 has presented the card holder with a description of costs associated with overdrafts in plain terms
10 and the card holder has consented with a written signature. If a card holder consents, he or she
11 shall be notified at the time of purchase or withdrawal that the transaction will result in a negative
12 balance in the card holder's account.

13 2 Severability. If any provision of this act or the application thereof to any person or
14 circumstances is held invalid, such invalidity shall not affect other provisions or applications of this
15 act which can be given effect without the invalid provision or application, and to this end the
16 provisions of this act are declared to be severable.

17 3 Effective Date. This act shall take effect January 1, 2011.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1243

BILL TITLE: relative to automatic teller machine card overdraft fees.

DATE: January 28, 2010

LOB ROOM: 302 **Time Public Hearing Called to Order:** 1401

Time Adjourned: 1420

(please circle if present)

Committee Members: Reps. Butler, DeStefano, Kopka, McEachern, Hammond, Nord, Winters, Meader, Gidge, Schlachman, D. Eaton, Hunt, Quandt, Belanger, D. Flanders, B. Holden, Dowling, Headd, Nevins and Palfrey **KEANS**

Bill Sponsors: Rep. Butler

TESTIMONY

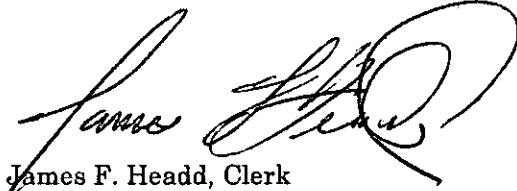
* Use asterisk if written testimony and/or amendments are submitted.

Rep. Edward Butler, sponsor – Introduced bill. Handed out written testimony. Concerns over draft fees; more specific to debit card; dollars must be in account. People over drafting 3-4 times per day thinking dollars were in account. There is action at the federal level so he will recommend ITL on this bill at this time.

David Collins, New Hampshire Credit Union League – No testimony.

***Jerry Little & Susan LeDuc NH Bankers Assn.** – Oppose the bill. Handed out written testimony. Pointed out individual must opt in. Mr. Little explained the mechanics of a transaction from vendor to bank and back. Different spiels involved if using computers vs. land line telephones. A lot to be worked out on federal legislation. Some companies batch their sales at the end of the day. Agrees with Rep. Butler; requests to ITL the bill.

Respectfully Submitted:



James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

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Bill Sponsors: Rep. Butler, Carr 1

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

#1 Rep Butler - introduced Bill - handed out written testimony - concerns of overdraft fees - more specific to DEBIT CARDS. \$ must be in the account - people overdrafting 3-4 times a day thinking \$ were in account -

There is action at the Federal level. so he will recommend FTL on the bill at this time

#2 DAVID COLLINS - Rep. NH Credit Union League - No Testimony

#3 Jerry Little - NH Bankers Assoc. - handed out written testimony pointed out individual must opt in

#12

HB 1243

Mr. Little explained the mechanics of a transaction from vendor to Bank of Beck - Different speeds involved if using computers vs. land line telephones.

A lot to be worked out on Fed regulation -

Some companies Batch their sales at the end of the day -

Agree with Rep Patten Report & ITR Bill -

Testimony

HB 1243 – An Act relative to automatic teller machine card overdraft fees

**Testimony of the New Hampshire Bankers Association
Presented by Gerald H. Little, President
To the
House Commerce and Consumer Affairs Committee**

Thursday, January 28, 2010

Members of the House Commerce and Consumer Affairs Committee, thank you for this opportunity to speak with you about HB 1243, an act relative to automatic teller machine card overdraft fees. For the record, I am Jerry Little, President of the New Hampshire Bankers Association, (NHBA).

The New Hampshire Bankers Association believes that much of the intent of HB 1243 has already been addressed by the Federal Reserve Board in amendments to Regulation E that will take effect on July 1, 2010. We think the balance of the bill will generate a number of unintended consequences and be impossible to implement and enforce. Therefore, we appear in opposition to HB 1243.

We read HB 1243 to propose two changes to New Hampshire Uniform Commercial Code regarding bank account overdraft charges.

1. A customer must “opt-in” to an overdraft protection program applying to ATM card transactions, (lines 8-to-10).
2. If the customer chooses to opt-in, they must be notified at the time of purchase or withdrawal if the transaction will result in an overdraft, (lines 10-to-12).

The first part of HB 1243 to require consumers to “opt-in” for overdraft protection on ATM and one-time debit card transactions before a fee may be charged is addressed in Federal Reserve Board amendments to Regulation E that was published in the Federal Register on November 17, 2009. Effective July 1, 2010, all banks and credit unions may only charge overdraft protection fees on these transactions if a consumer has previously opted in for a properly disclosed overdraft program.

The second part of HB 1243 to require a consumer that has opted in for ATM card overdraft protection to be notified each time a purchase or withdrawal will result in a negative balance is not workable for a variety of reasons, including:

- Merchants that “batch” payments for later submission will not be able to accept debit cards because they can’t perform this function in real time.
- High volume merchants, (Dunkin Donuts, etc.), will see order processing slow to a snail’s pace.
- Anyone accepting ATM card payments will have to institute a program for collecting, storing and retrieving proof that the required disclosure was given.
- New Hampshire residents expecting this warning will not get it when using their cards out-of-state. It should be made clear that NH banks will not be held responsible for that.
- This is almost certainly pre-empted in its application to federally-chartered banks.

Because the first section of this bill has already been addressed by the Federal Reserve Board amendments to Regulation E, and the second part will cause significant disruption to the payments system and is generally, in our opinion, unworkable; And because there should be no confusion in the minds of consumers on how overdraft protection programs work in their application to ATM and debit card-based transactions once they have been required by Regulation E to opt-in for the coverage and have received, reviewed and signed the mandated disclosure form, the NHBA feels HB 1243 is unnecessary, is likely to create a number of problems for businesses accepting electronic payments, and should be found Inexpedient to Legislate.

(Summary of Regulation E Amendments from www.federalreserve.gov)

Highlights of Final Rules Regarding Overdraft Services

The final rule will enable consumers to limit the costs of overdraft services by providing consumers a choice regarding their institution's payment of overdrafts for ATM and one-time debit card transactions. Consumers will also be provided a clear disclosure of the fees and terms associated with the institution's overdraft service.

- The final rule requires consumers to opt in, or affirmatively consent, to the institution's overdraft service for ATM and one-time debit card transactions, before overdraft fees may be assessed on the account.
 - The rule also provides consumers an ongoing right to revoke consent.
- The opt-in right applies to all consumers, including existing account holders.
- The final rule prohibits financial institutions from tying the payment of overdrafts for checks and other transactions to the consumer opting into the overdraft service for ATM and one-time debit card transactions.
- The final rule requires institutions to provide consumers who do not opt in with the same account terms, conditions and features, including price, as provided to consumers who do opt in.
- The mandatory compliance date is July 1, 2010.

OVERDRAFT ABUSE: READERS' STORIES (SUBMIT YOURS)

Excerpts from our readers' stories

... Had they processed the 6 small purchases first, my overdraft fee would have been only \$35.00, but the way they did it, I ended up paying 2000% interest on money "borrowed" for not even 2 days!! ...

...I have a wife and 4 year old daughter and we are a regular working family. We watched as [our bank] would REMOVE items that it showed the previous day had already CLEARED our account and place them in a "pending" status only to clear one huge house payment and then resend through about 5 other small transactions overdrafting our account. One was about around \$2 dollars and they charged \$35 each time!!!

...

...Recently I was stung with \$156.00 NSF Fees due to a 5 cent overdraft. While balancing my account I noticed the possibility of this happening and made a \$60.00 deposit just in case. The first thing they did was credit my deposit and then added two NSF fees of \$38.00 each which automatically put me in the red. Then they ran the two debits and added two more NSF fees. So instead of running the debits after the deposit which would have not put me in the red, they ran a total of \$152.00 in NSF fees....

... One time I overdraw less than a dollar and they still charged me \$33.00. There have been several occasions where I should have only received one fee but they manipulated the order in which items were paid and charged me for five or six overdrafts instead...

...I have been charged over \$350 in bank charges for under \$20 overdraft...

...My daughter also has had some awful experiences with overdrafts which has eaten up her entire check just to cover a few dollars. I know that they have to take measures to keep things in order, but there are also times when the punishment in no way fits the crime...

...If the banking regulators were even half paying attention they would know something fishy was going on and put a stop to it. I actually went without money to feed my kids several times as the result of their unscrupulous greed...

...I ended up being \$295 in the red and being that I am unemployed, it took me a long time to get the fees paid.

...There have been weeks where an automatic payment will go through that we forgot about, causing our acct to be short. Then we will have a series of checks come through for payment. The bank makes sure they put the largest amount through first so that all the rest of the checks that could have been paid will bounce. We have been charged 320.00 dollars at a time. This causes us huge hardships, and its almost impossible for us to play catch-up, its starts a vicious, downward spiral....

...I have had problems in the past with overdraft penalties that have added up to 200.00 to \$300.00 over a 2 or 3 day period. I would think that my direct deposit had gone through, so I would make sometimes just \$2.00 or \$3.00 purchases at stops along my routes and because the deposits hadn't gone through, my bank would tack on an extra \$22.00 overdraft penalty to each transaction. I never intentionally draw on my account when I know the money is not there....

...we had 6 overdraft charges and a daily 5 dollar fee for evry day that we were overdrawn, about 230 dollars worth of fees that were supposed to be only one 34 dollar fee...they had manipulated our account usage to make it look like we had written the check first and then had made all those purchases.so they got more money in fees. I called to try to have the fees reversed and was told that I needed to only spend what is in the account to avoid unnecessary fees(DUH!!)...

...I had owned this account for over 20 years and had never had an overdraft situation. I contacted the bank and they confirmed that the account was empty and 11 items had bounced. Upon further investigation I found that there was a single transaction that I had no record of. When I investigated the transaction I

found out that it was a dentist that I had not visited in over a year. When I called the dentist office I was told that they were having trouble with my insurance company and decided to draft my account...

...I received 210.00 worth of overdraft charges. When I went to the bank, I was told that the funds were not available technically until a business day later. When I worked as a teller, if funds were not available to the customer immediately, we let them know right there on the spot. Ever since deregulation of the banking industry, the public has been getting screwed...

...I have a bad run of luck and am trying to squeak by until my check comes in one day. I have \$6 in my account. I have a check hit the bank for \$7.50. My bank kindly pays it and charges \$32 for their trouble. I am now \$33.50 in the hole. But that wasn't the really bad part. Five more checks hit at the same time, each a \$32 charge adding up to \$190! And we think they are being nice giving us "Free Checking!" My total amount of the checks came up to \$56.38! These were small because I knew I was pushing my luck but needed stuff to live! I hoped they would clear one day later. So out of an \$800 check which is budgeted down to the penny each month I am now shy \$246.38! It's worse if you don't have any money forthcoming to cover the deficit because they start charging \$6 a day for neg. balances lasting 5 or more days! ...

...I have been with my bank for quite a few years now and I am also on social security disability. I recently had my account overdrawn not realizing that it had happened until my social security check was deposited minus the amount owed plus HUGE fees. They refused to remove the fees...

...when my husband and were first on ss. we had to figure out how to budget on a monthly income the overdrafts and atm fees were like an assault...

...[my bank] continued to allow me to use my check card for small purchases even though I was overdrawn. Each time I used my card, they charged my account with a fee of approximately \$30. By the time this matter was brought to my attention, they had charged me hundreds of dollars in overdraft fees for an overdraft amount of under \$100...

...once i clear up the levy on my account i will but putting my money under my bed...

...I had an issue once where I had made a small error in my checking account. Wrote a check and it did not have enough funds in the account to cover it. So I was charged a \$25.00 overdraft fee (that didn't show up on my statement immediatly). Which then in turn made it so that after I made my next deposit i was then \$25.00 off in my check book plus the error I had made. So then the next three checks didn't make it through which brought my boucned check fees up to \$100.00... and I still was unaware of this. Until after about 3 weeks of this accumulating issue, I was approximately \$400.00 in debt. It was an insane rolling snowball effect. I ended up being very late with my rent AND my car payment, which of course again, cost me even more in late fees with them. All of that for (I believe) a \$10.00 checking error... Has something like this happened to you?

Consumers are catching on to the ways in which banks artificially increase overdrafts, costing their account holders billions per year in unfair fees.

Congress was poised to make a difference in November, when the House Financial Services Committee was debating H.R. 946, Congresswoman Carolyn Maloney's bill to stop unfair overdraft practices. Unfortunately, the bill has stalled, but it will be considered again next year.

Complete Document

Can Be Viewed

In Bill Folder

The New York Times

May 20, 2009

YOUR MONEY

Consumers Are Dealt a New Hand in Credit Cards

By **RON LIEBER**

At first glance, the sweeping credit card legislation that passed the Senate on Tuesday looks like a huge victory for consumers. The bill, after all, contains relief from penalty fees and certain interest rate spikes.

But for people who pay off their bills each month, and milk the card rewards programs for everything they're worth, there is some cause for concern.

For months now, the card companies have been threatening to cut rewards programs sharply to make up for revenue lost because of the new restrictions.

My guess, however, is that this talk is just so much saber-rattling.

Card companies want to make money, and big spenders help them do it, even if those cardholders do not go into debt.

First, let's lay out the things we know will change because of the new legislation. The bill is chock-full of new rules, which will take effect at various points in the year after President Obama signs the final legislation.

¶ There are new restrictions on when card companies can increase the interest rate on balances you've already run up. The bill says that banks generally must wait until you're 60 days late in making the minimum payment before applying a penalty interest rate to your existing debt.

While an earlier bill in the House of Representatives suggested less strict rules, House members have agreed to adopt the Senate version and intend to vote on it on Wednesday. On Tuesday, senators voted 90-5 in favor of the measure.

¶ Card companies will have to give 45 days' notice before raising their interest rates. There's also a notice requirement for any significant change to a card's terms, which may keep companies from surprising customers who have been saving their loyalty points for years with huge alterations in rewards programs.

¶ Banks must send out your bill no later than 21 days before the due date. They cannot send it with, say, 14 days to go, hoping that you won't get a check to the bank in time to avoid a late fee.

¶ If the card company gets your payment by 5 p.m. on the due date, it's on time, according to the new rules. No more of this early morning deadline nonsense, which led to late fees for payments that arrived with the afternoon mail. Also, no more late fees if the due date is a Sunday or holiday and your payment doesn't arrive until a day later.

¶ Let's say you're paying different interest rates on the debt on a single card — one for a cash advance, another for a balance transfer and a third for new purchases. Now, when you make a payment over the minimum balance, banks will have to apply it to the highest-interest debt first. I bet you can guess how some banks used to handle this sort of situation.

¶ Banks will need your permission before allowing you the "privilege" of spending more than your credit limit and paying a fat \$39 fee for that privilege. The card companies should be ashamed that they needed a law to make this "opt in" requirement a reality.

If you're a student, it will become harder to get a credit card. No one under 21 can have a card unless a parent, legal guardian or spouse is the primary cardholder. Students with their own income can submit proof and ask for an exception to the co-signer requirement.

The senators, in an apparent endorsement of helicopter parenting, also require written permission from the parent, guardian or spousal co-signer for any increase in a card's credit line. You can read all the gory details through links to [the Senate bill](#).

Hate gift cards? Me, too. There will be some helpful new rules regarding those absurd dormancy fees, which punish people who let the cards sit around before using them.

Under the Senate's rule, retailers and others that issue [Visa](#), [MasterCard](#), [American Express](#) or Discover gift cards or certificates will have to print explicit dormancy fee information on the card. Sellers of the cards will also have to inform the buyer of the fee. That's a smart twist, since the gift giver can then become aware of the noxious nature of the fee — and elect to give cash or some other gift.

The bill also bans expiration dates on gift cards and certificates any sooner than five years after the card's original issue date. And the retailer or card issuer will have to print the terms of any expiration date in capital letters in at least 10-point type. Call it the fine print rule.

It will be fascinating to see which retailer or card issuer has the nerve, after having free use of your money for five years, to tell you it will lose the money altogether if you don't use up their gift card. I dare them to try.

So will credit card companies kill reward programs or drastically scale most of them back? Of course not.

"If you strip away the reward component of a credit card, it's essentially a commodity," said Rick Ferguson, editorial director at the loyalty marketing company LoyaltyOne. "The reward is what gives it its personality. It works from a branding perspective as well as a mechanism to influence customer behavior and consolidate spending on a particular card."

That last part is crucial. People who spend a ton generate fees galore from merchants, and that money helps the card company stay in business. So you may soon see card companies giving away more goodies or lowering annual fees for people who hit certain spending thresholds each year. American Express already does this on a number of cards.

Also, keep in mind that you may have more control over what the card companies do to you than you may think.

If you don't like the new fees and other things that banks will soon be testing as they grapple with their new economic reality, then make some noise. Send a note to me at rlieder@nytimes.com, so I can write about the latest foolishness — or consumer-friendly twist. At the very least, all of our complaints to the higher-ups at the banks may help persuade the companies to head in another direction.

"Work your way up the chain," said Dennis C. Moroney, research director for bank cards at TowerGroup, a MasterCard-owned financial services consultant. After all, it may cost less to appease you than it would to replace you.

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Debtors' Revolt: True Stories of Overdraft-Fee Survivors

We all know someone who's had a \$35 cup of coffee.

No, this isn't a kids-these-days rant about the coin required for a fancy-schmancy latte (extra foam, extra hot, non-fat, please). This is about cold, hard, overdraft fees.

You don't even have to be a caffeine drinker to fall victim to them. Even those who pinch pennies can't escape their grasp.

The Federal Reserve says that banking institutions make between \$25 million and \$38 million annually from overdraft fees. Bank of America, which received billions in government bailout money, is notorious for its merciless \$35 overdraft fees.

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Congress said this week that it has had enough of the charges, which can quickly add up to hundreds of dollars, since cardholders are enrolled in a misleadingly named "overdraft protection" program. This program lets the cardholder keep spending, even if there is no money in his account, all while assessing a fee every time the card is swiped.

Both chambers have proposed new rules such as capping the number of overdraft fees to six a year and requiring that banks explain to consumers how their accounts work. Months ago, credit card legislation was passed that will tidy up exploitative interest rate changes and improve communication between banks and account holders.

Consumers have been loud in their protests of faceless megabanks such as Bank of America. One woman, Ann Minch, posted a YouTube video calling for a "debtors' revolt" after BofA raised her interest rate from 12.99 percent to 30 percent for no reason. Minch had her interest rate lowered, but the frustrations and revolt live on, from the marble halls of Congress to the dingy carpeted halls of a dorm near you.



Spencer Platt, Getty Images

A college-age friend in Oregon said he was once charged \$500 in overdraft fees at BofA, all for food. What he thought were \$1 bottles of orange juice on his way to work ended up costing him \$36 each, as well as the drama of trying to reverse the fees.

"I went in to scream at them," he said, "and quickly figured out that this was just their way of trying to sell me a line of credit. Thus, I opened a line of credit and had them waive the fees."

The next day, he went back to the branch and closed his account. "Damn criminals," he said.

Another friend, whose name rhymes with Wase Kickman, thought she had it all figured out. After an overdraft mishap in August, she called Bank of America's customer service line and asked them to change her account so that her card would be rejected if there were no funds to access.

The Rolling Stones song is right: you can't always get what you want. In early

November, her card was rejected when she was trying to buy a 99-cent bean burrito at Taco Bell. She checked her balance on an A.T.M., and her account was more than \$600 in the red, days after she had deposited her food money for the month. She called BofA and was told that while a note had been flagged on her account to reject her card, no change had actually been enacted, and nobody at the bank would take responsibility for it.

Hours on the customer service line led to no refunds, and some acidic hints that she should invest in a ledger. What it took to finally get a refund: sitting in front of a branch vice president on the verge of tears.

For another friend, this one a graduate student, the battle is ongoing. Joe found out that he was in the red about two weeks ago after a delayed gym membership fee hit his account. He transferred money and went on with life as usual until he chowed down a chicken burrito at Chipotle, effectively eating the rest of his funds, unaware of the other charges that hit his card all at once.

"Then Bank of America got really greedy," Joe writes. "So on Monday, when I did the cover transfer, my balance stood at \$67.17. That's when they hit with four \$35.00 overdraft charges for the Marriott and the other three. The second 'overdraft item fee' caused my account to go into the red. That's right, my account was fine, and THEIR overdraft fee put it back into the red. Then the third and fourth charges hit, for a total SO FAR of \$120."

Joe is up to \$280 in fees, and when he went to a branch in person, he was told that only \$70, tops, would be refunded. The teller he spoke with didn't seem amused by him saying that with the \$50 billion in bailout the bank had received, they certainly didn't need his extra few hundred bucks. He was given the name of a special services representative, but not her contact information, and told to wait.

"And the irony is that I would switch banks but I have so many bills lined up to pay on the auto system that it's just not worth it at this point," Joe wrote. "I've read that BOA does business with half the country. [They] can be as [greedy] as they want, it seems, with such a captive audience."

A call to Bank of America officials Friday was not returned.

For those of you facing your own debtor's revolt, the only cure is persistence. A few pointers:

- Hit "o" until you get to speak with a real live person.

- Show up in person, if you can.

- Be persistent. They *can* reverse charges, you just have to make them *want* to.

- Once you've cleared your charges, clear your account. Take your business to a local bank or credit union instead. They may charge A.T.M. fees, which are a pain, but they're ultimately worth the service you get, where someone is held accountable for your finances.

- Once you've found a new place to keep

your money, sit down with a representative and make sure you understand all terms of your account-interest rates, overdraft policy, online banking, *everything*. Then invest in a (sigh) ledger.

- If all else fails, I can redirect you to the waterworks.

Good luck, and I'll see you at the credit union. We can swap stickers for our ledger covers.

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Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1243

BILL TITLE: relative to automatic teller machine card overdraft fees.

DATE: 2-11-10

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. McEAchern

Seconded by Rep. Hammond

Vote: 16-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1243

BILL TITLE: relative to automatic teller machine card overdraft fees.

DATE: 2-11-10

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Mr. Eschew*

Seconded by Rep. *Hammont*

Vote: *16-0* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James F. Headd, Clerk

COMMERCE AND CONSUMER AFFAIRS

Bill #: HB 1243 Title: OVERDRAFT fees

PH Date: / /

Exec Session Date: 2 / 11 / 10

Motion: ITL

Amendment #:

MEMBER	YEAS	NAYS
Butler, Edward A, Chairman	/	
Schlachman, Donna L, V Chairman		
DeStefano, Stephen T		
Kopka, Angeline A	/	
Meador, David R	/	
McEachern, Paul	/	
Hammond, Jill Shaffer	/	
Nord, Susi	/	
Winters, Joel F	/	
Keans, Sandra B	/	
Gidge, Kenneth N	/	
Hunt, John B	/	
Quandt, Matt J	/	
Belanger, Ronald J		
Flanders, Donald H	/	
Holden, Rip		
Dowling, Patricia A	/	
Headd, James F, Clerk	/	
Nevins, Chris F	/	
Palfrey, David J	/	
	16 - 0	

TOTAL VOTE:

Printed: 12/18/2009

Committee Report

CONSENT CALENDAR

March 3, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on COMMERCE AND CONSUMER
AFFAIRS to which was referred HB1243,**

**AN ACT relative to automatic teller machine card
overdraft fees. Having considered the same, report the
same with the following Resolution: RESOLVED, That it
is INEXPEDIENT TO LEGISLATE.**

Rep. Donna L Schlachman

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	COMMERCE AND CONSUMER AFFAIRS
Bill Number:	HB1243
Title:	relative to automatic teller machine card overdraft fees.
Date:	February 18, 2010
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

Filed prior to learning of the new Federal Reserve Board "Regulation E" that will take effect on July 1, 2010, this bill sought to protect customers from excessive bank overdraft fees that occur from ATM card use. Banks would be required to institute an "opt-in" overdraft protection program whereby an ATM cardholder would be notified at the time of a purchase whenever a negative balance is created by a withdrawal in order to stop additional use of the card and additional fees. In addition, it required clear disclosure and written consent of bank overdraft policies. The new Federal Regulation E requires that banks and credit unions must notify new and current customers of overdraft policies and customers must "opt-in," or consent, to the bank's overdraft protection service and fees before such fees can be charged. The customer time-of-purchase notification part of this bill is not addressed in the Federal regulations and, while it sounds good, was determined to be unworkable. Many businesses do not submit card transactions for payment immediately, and there may be a delay in transaction communications when ATM usage is done out-of-state.

Vote 16-0.

Rep. Donna L Schlachman
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

COMMERCE AND CONSUMER AFFAIRS

HB1243, relative to automatic teller machine card overdraft fees. **INEXPEDIENT TO LEGISLATE.**

Rep. Donna L. Schlachman for **COMMERCE AND CONSUMER AFFAIRS**. Filed prior to learning of the new Federal Reserve Board "Regulation E" that will take effect on July 1, 2010, this bill sought to protect customers from excessive bank overdraft fees that occur from ATM card use. Banks would be required to institute an "opt-in" overdraft protection program whereby an ATM cardholder would be notified at the time of a purchase whenever a negative balance is created by a withdrawal in order to stop additional use of the card and additional fees. In addition, it required clear disclosure and written consent of bank overdraft policies. The new Federal Regulation E requires that banks and credit unions must notify new and current customers of overdraft policies and customers must "opt-in," or consent, to the bank's overdraft protection service and fees before such fees can be charged. The customer time-of-purchase notification part of this bill is not addressed in the Federal regulations and, while it sounds good, was determined to be unworkable. Many businesses do not submit card transactions for payment immediately, and there may be a delay in transaction communications when ATM usage is done out-of-state.

Vote 16-0.

**Original: House Clerk
Cc: Committee Bill File**

Stapler, Carol

From: EdoftheNotch@aol.com
Sent: Thursday, February 18, 2010 11:49 AM
To: Stapler, Carol; Schlachman, Donna
Subject: Fwd: Blurbs

Carol,

OK to go.

Donna, I made a few word changes in the HealthFirst blurb. many thanks for taking these on.

Ed

From: Donna.Schlachman@leg.state.nh.us
To: edofthenotch@aol.com
CC: carol.stapler@leg.state.nh.us
Sent: 2/18/2010 11:25:07 A.M. Eastern Standard Time
Subj: Blurbs

Ed

I'm not sure I got either of these right! Please OK before Carol sends them on.
Donna

HB 1243

Filed prior to learning of the new Federal Reserve Board "Regulation E" that will take effect on July 1, 2010, this bill sought to protect customers from excessive bank overdraft fees that occur from ATM card use. Banks would be required to institute an "opt-in" overdraft protection program whereby an ATM cardholder would be notified at the time of a purchase whenever a negative balance is created by a withdrawal in order to stop additional use of the card and additional fees. In addition, it required clear disclosure and written consent of bank overdraft policies. The new Federal Regulation E requires that banks and credit unions must notify new and current customers of overdraft policies and customers must "opt-in," or consent, to the bank's overdraft protection service and fees before such fees can be charged. The customer time-of-purchase notification part of this bill is not addressed in the Federal regulations and, while it sounds good, was determined to be unworkable. Many businesses do not submit card transactions for payment immediately, and there may be a delay in transaction communications when ATM usage is done out-of-state.

Donna Schlachman

HB 1488

Rolled out in 2009, New Hampshire's HealthFirst was intended to create an affordable "standard wellness" policy that would bring down health care costs for businesses in the small group (less than 50 employees) market. It was also designed to reduce out of pocket expenses and to improve the health status of workers by covering routine health needs and incentivizing wellness behaviors. HealthFirst has not proven to be competitive as hoped. Many small businesses still must turn to simple high deductible policies for their employees. By adding a "basic wellness plan" to New Hampshire HealthFirst statute, we have an opportunity to examine other insurance design models for the purpose of bringing down policy costs, continuing to work to help our small businesses.

2/18/2010