



James Libby, Ph.D.
Senator, District 22

THE MAINE SENATE
132nd Legislature

3 State House Station
Augusta, Maine 04333

Testimony of Senator James D. Libby

Sponsor of LD 142, An Act to Prohibit Financial Institutions from Charging Multiple Fees for Attempted Withdrawals Involving Insufficient Funds

Public Hearing, Tuesday, February 4, 2025

Joint Standing Committee on Health Coverage, Insurance and Financial Services

Cross Building, Room 220

Senator Bailey, Representative Mathieson, and esteemed members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services.

My name is James Libby, and I represent Senate District #22 which covers parts of the counties of Cumberland, York and Oxford.

I am here today to speak to you about LD 142, *An Act to Prohibit Financial Institutions from Charging Multiple Fees for Attempted Withdrawals Involving Insufficient Funds*.

Members of the Committee, recently a new overdraft policy was mailed to constituents in my district who are members of a credit union in with many branches here in Maine.

Philosophically, I believe that overdrafts are a market-based issue. Every once in a while, though, markets need guardrails.

To explain – obviously overdrafts happen often. Our citizens have faced a great deal of financial pressure due to the long period of inflation. While inflation has subsided somewhat, it has had serious cumulative effects. Constituents in my district manage their checking accounts just fine. However, with ever-increasing financial obligations, from taxation to energy costs and the like, sometimes errors occur when the budget is stressed and balanced narrowed.

In the event of an overdraft, a fee is assessed by a bank, credit union, or other entity, which is perfectly acceptable to my constituents. However, a new policy has recently been implemented by at least one credit union in Maine, however, and that is the problem that we are here to solve today. In December of 2024, a notice was mailed to my constituents

informing them that a second fee would be assessed when the credit union attempted to run the transaction a second time. Often these transactions are attempted a second time within a short timeframe – even a matter of hours. So, for the consumer who may have made an error, a \$30 overdraft fee turns into a \$60 fee.

The new practice is patently unfair to my constituents. I have spoken to representatives of the credit unions and banks, looking to find out as much as I could about the practice, and to try to find a way to solve the problem without submitting legislation. Unfortunately, neither banks nor credit union representatives that I talked to were willing to consider ending the practice. Our conversation focused on their software platforms, non-overlapping examiners and regulators, the cost of labor, an institutional willingness to eliminate one of the fees at a later date, and other issues that I am sure you will hear today from opponents to the bill.

Please consider this: No individual wants to see a double-billed fee, especially an overdraft fee which is far too high to begin with, especially when the fee is deducted automatically, without customer consent. It is more than an aggravation for my constituents. It represents a level of organizational control and abuse that we in Maine have always sought to avoid.

Until this month, banks and credit union employees were removing the automated fee so as not to take money from my constituents' accounts. So now, the practice at one institution is to charge more for doing less.

Committee members, please do not allow this anti-consumer practice to replicate. Your constituents will thank you for defending them.

Please join me in supporting this pro-consumer bill.

Sincerely,

James D. Libby, Ph.D.

State Senator, District #22

NC, VA

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Federal Credit Union

Atlantic Federal Credit Union Notification of Changes in the Terms of Your Membership Account Agreement and Disclosures

Effective November 13, 2024, your membership, accounts, and services will be subject to the updated terms and conditions of our *Membership Account Agreement and Disclosures*. Your acceptance and agreement to the revised terms will be shown by your continued use of any existing or new membership, account, or service after the effective date. As a member owned financial co-operative, we are always mindful that it is our duty to protect Credit Union resources. As good stewards, it is imperative that we stay up to date with all regulatory and legal requirements placed upon the Credit Union. The new *Membership Account Agreement and Disclosures* provides clarifications of the obligations of both the Credit Union and its membership, as well as provisions for use of new, upcoming services that will be available to you. The excerpts summarized below highlight the most significant changes to our terms and conditions; however, they do not represent the complete scope of the updates. To ensure a thorough understanding of all changes, we recommend reviewing the full text of the updated *Membership Account Agreement and Disclosures*, including the terms summarized below, which can be requested by calling us at 800-834-0432 during normal business hours, by writing to us at Atlantic Federal Credit Union Attn: Membership Agreement, 600 Sable Oaks Drive Suite 100, South Portland, ME, 04106, and/or by viewing online at www.atlanticfcu.com/membership-agreement.

General Terms

Reassignment of Account Numbers, Access Devices, and Related Matters

The Credit Union may reassign account numbers, access devices, and related matters if fraud, illegal, or improper activity is suspected, or if we have a legitimate need pursuant to Credit Union policies or operational requirements.

Communications regarding your Relationship

We have clarified expectations regarding text messages, providing more detailed information and options regarding communication preferences, including how you may revoke consent or opt-out of specific categories of text messages.

Account Use and Ownership

Accounts Established for Minors

Accounts opened for minors will generally require a parent, guardian, or other adult joint owner who is legally able to enter into binding contractual agreements, unless a court has granted an emancipation order for the minor. If a required joint owner is removed from a minor's account, the Credit Union has the right to suspend all account activity until a new joint owner is placed on the account who is a recognized legal guardian, or pursuant to any cognizable court order.

Account Amendments and Changes

The Credit Union may make changes to the Membership Account Agreement and Disclosures deemed necessary or in the best interests of the Credit Union. We may modify terms and conditions, add new ones that we consider necessary or in the best interests of the Credit Union, and make operational changes at any time without notice, except as expressly required by law.

Protecting your Account and your Information

Linking your accounts or services to a third-party app or payment service means you agree to their terms and understand that these are not Credit Union services, and transactions using these services are subject to your

agreements with the app or service provider. You assume all risks associated with using these apps or services, including potential fraud or misapplication of funds, and understand that transferred funds may not be insured.

Funds Availability Policy

Shared Branching Disclosures - Transaction Limits

Aggregate daily withdrawals from all accounts at Shared Branching locations may be limited to \$10,000.00 in Maine.

Available Balance, Posting Transactions, and Overdraft

Multiple Fees per Item are Possible

You may be charged an Overdraft/Non-Sufficient Funds (NSF) fee each time a debit is returned to a merchant for insufficient funds, and the merchant that submitted the debit may resubmit it, even if it has been previously returned. This could result in multiple fees for a single debit that has been returned for insufficient funds, as the Credit Union cannot identify such actions you authorized the merchant to perform. If vendors manipulate debits to appear as new transactions, leading to repeated fees, we will reverse such fees upon investigation.

Debit Cards and Cards Used at ATMs

Fraud Prevention

The Credit Union reserves the right to use its fraud-prevention systems to limit, prevent, or block any activity on your card to protect you, the Credit Union, its members, and employees from risks or losses, without disclosing specific details of the program in order to maintain its security.

Electronic Fund Transfer Agreement & Disclosures

Automated Clearing House (ACH) Transactions - Express Deposit

Express Deposit allows you to receive electronic ACH direct deposits up to three days earlier than their scheduled payday, with no additional costs or fees, and is automatically available to all members who receive these deposits. The timing of early ACH direct deposits depends on when the ACH originator, typically the employer, transmits the notice of credit to the financial institution, and not all ACH direct deposits may be eligible for early posting.

Receiving FedNow Payments

Deposits received through the Federal Reserve's FedNow Network for credit to your account are governed by the FedNow Rules, the Uniform Commercial Code, and our requirements. FedNow deposits are typically completed within 30 seconds of transmission, but they may be delayed or prevented due to transaction limits, fraud, regulatory, or compliance reviews, and we are not obligated to honor any payment order or instruction that could result in our violation of applicable law. If you receive an unexpected or fraudulent FedNow credit, you must inform us immediately as you may be liable for using funds that do not belong to you.

Statements and your Duty to Review

Electronic Statements

We may stop sending electronic statements and are allowed to send paper statements by mail for any reason, but especially if we have reason to believe electronic statements may not be received or accessible to any or all owners of the account.