

## Union Calendar No. 33

108<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 758

**[Report No. 108-53]**

To allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mrs. KELLY (for herself, Mrs. MALONEY, Mrs. CAPITO, Mr. SHERMAN, and Mr. MOORE) introduced the following bill; which was referred to the Committee on Financial Services

MARCH 31, 2003

Additional sponsor: Mr. BEREUTER

MARCH 31, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 13, 2003]

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## A BILL

To allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks, and for other purposes.



1 *Board of Governors of the Federal Reserve System deter-*  
2 *mines otherwise.”.*

3 (b) *Effective at the end of the 2-year period beginning*  
4 *on the date of the enactment of this Act, section 2 of Public*  
5 *Law 93–100 (12 U.S.C. 1832) is amended—*

6 (1) *in subsection (a)(1), by striking “but subject*  
7 *to paragraph (2)”;*

8 (2) *by striking paragraph (2) of subsection (a)*  
9 *and inserting the following new paragraph:*

10 “(2) *No provision of this section may be con-*  
11 *strued as conferring the authority to offer demand de-*  
12 *posit accounts to any institution that is prohibited by*  
13 *law from offering demand deposit accounts.”; and*

14 (3) *in subsection (b) (as added by subsection (a)*  
15 *of this section) by striking “and is not a deposit or*  
16 *account described in subsection (a)(2)”.*

17 **SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**  
18 **THORIZED.**

19 (a) *REPEAL OF PROHIBITION ON PAYMENT OF INTER-*  
20 *EST ON DEMAND DEPOSITS.—*

21 (1) *FEDERAL RESERVE ACT.—Section 19(i) of*  
22 *the Federal Reserve Act (12 U.S.C. 371a) is amended*  
23 *to read as follows:*

24 “(i) *[Repealed]*”.



1           *exceed the general level of short-term interest*  
2           *rates.*

3           “(B) *REGULATIONS RELATING TO PAY-*  
4           *MENTS AND DISTRIBUTION.—The Board may*  
5           *prescribe regulations concerning—*

6                     “(i) *the payment of earnings in ac-*  
7                     *cordance with this paragraph;*

8                     “(ii) *the distribution of such earnings*  
9                     *to the depository institutions which main-*  
10                    *tain balances at such banks or on whose be-*  
11                    *half such balances are maintained; and*

12                    “(iii) *the responsibilities of depository*  
13                    *institutions, Federal home loan banks, and*  
14                    *the National Credit Union Administration*  
15                    *Central Liquidity Facility with respect to*  
16                    *the crediting and distribution of earnings*  
17                    *attributable to balances maintained, in ac-*  
18                    *cordance with subsection (c)(1)(A), in a*  
19                    *Federal reserve bank by any such entity on*  
20                    *behalf of depository institutions.*

21           “(C) *DEPOSITORY INSTITUTIONS DE-*  
22           *FINED.—For purposes of this paragraph, the*  
23           *term ‘depository institution’, in addition to the*  
24           *institutions described in paragraph (1)(A), in-*  
25           *cludes any trust company, corporation organized*

1           *under section 25A or having an agreement with*  
2           *the Board under section 25, or any branch or*  
3           *agency of a foreign bank (as defined in section*  
4           *1(b) of the International Banking Act of 1978).”.*

5           ***(b) AUTHORIZATION FOR PASS THROUGH RESERVES***  
6           ***FOR MEMBER BANKS.***—*Section 19(c)(1)(B) of the Federal*  
7           *Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by strik-*  
8           *ing “which is not a member bank”.*

9           ***(c) CONSUMER BANKING COSTS ASSESSMENT.***—

10           ***(1) IN GENERAL.***—*The Federal Reserve Act (12*  
11           *U.S.C. 221 et seq.) is amended—*

12                     ***(A)*** *by redesignating sections 30 and 31 as*  
13                     *sections 31 and 32, respectively; and*

14                     ***(B)*** *by inserting after section 29 the fol-*  
15                     *lowing new section:*

16           ***“SEC. 30. SURVEY OF BANK FEES AND SERVICES.***

17           ***“(a) ANNUAL SURVEY REQUIRED.***—*The Board of Gov-*  
18           *ernors of the Federal Reserve System shall obtain annually*  
19           *a sample, which is representative by type and size of the*  
20           *institution (including small institutions) and geographic*  
21           *location, of the following retail banking services and prod-*  
22           *ucts provided by insured depository institutions and in-*  
23           *sured credit unions (along with related fees and minimum*  
24           *balances):*

25                     ***(1)*** *Checking and other transaction accounts.*

1           “(2) *Negotiable order of withdrawal and savings*  
2           *accounts.*

3           “(3) *Automated teller machine transactions.*

4           “(4) *Other electronic transactions.*

5           “(b) *MINIMUM SURVEY REQUIREMENT.—The annual*  
6           *survey described in subsection (a) shall meet the following*  
7           *minimum requirements:*

8           “(1) *CHECKING AND OTHER TRANSACTION AC-*  
9           *COUNTS.—Data on checking and transaction accounts*  
10           *shall include, at a minimum, the following:*

11                   “(A) *Monthly and annual fees and min-*  
12                   *imum balances to avoid such fees.*

13                   “(B) *Minimum opening balances.*

14                   “(C) *Check processing fees.*

15                   “(D) *Check printing fees.*

16                   “(E) *Balance inquiry fees.*

17                   “(F) *Fees imposed for using a teller or other*  
18                   *institution employee.*

19                   “(G) *Stop payment order fees.*

20                   “(H) *Nonsufficient fund fees.*

21                   “(I) *Overdraft fees.*

22                   “(J) *Deposit items returned fees.*

23                   “(K) *Availability of no-cost or low-cost ac-*  
24                   *counts for consumers who maintain low bal-*  
25                   *ances.*

1           “(2) *NEGOTIABLE ORDER OF WITHDRAWAL AC-*  
2           *COUNTS AND SAVINGS ACCOUNTS.—Data on negotiable*  
3           *order of withdrawal accounts and savings accounts*  
4           *shall include, at a minimum, the following:*

5                     “(A) *Monthly and annual fees and min-*  
6                     *imum balances to avoid such fees.*

7                     “(B) *Minimum opening balances.*

8                     “(C) *Rate at which interest is paid to con-*  
9                     *sumers.*

10                    “(D) *Check processing fees for negotiable*  
11                    *order of withdrawal accounts.*

12                    “(E) *Fees imposed for using a teller or*  
13                    *other institution employee.*

14                    “(F) *Availability of no-cost or low-cost ac-*  
15                    *counts for consumers who maintain low bal-*  
16                    *ances.*

17           “(3) *AUTOMATED TELLER TRANSACTIONS.—Data*  
18           *on automated teller machine transactions shall in-*  
19           *clude, at a minimum, the following:*

20                    “(A) *Monthly and annual fees.*

21                    “(B) *Card fees.*

22                    “(C) *Fees charged to customers for with-*  
23                    *drawals, deposits, and balance inquiries through*  
24                    *institution-owned machines.*

1           “(D) Fees charged to customers for with-  
2           drawals, deposits, and balance inquiries through  
3           machines owned by others.

4           “(E) Fees charged to noncustomers for with-  
5           drawals, deposits, and balance inquiries through  
6           institution-owned machines.

7           “(F) Point-of-sale transaction fees.

8           “(4) OTHER ELECTRONIC TRANSACTIONS.—Data  
9           on other electronic transactions shall include, at a  
10          minimum, the following:

11          “(A) Wire transfer fees.

12          “(B) Fees related to payments made over  
13          the Internet or through other electronic means.

14          “(5) OTHER FEES AND CHARGES.—Data on any  
15          other fees and charges that the Board of Governors of  
16          the Federal Reserve System determines to be appro-  
17          priate to meet the purposes of this section.

18          “(6) FEDERAL RESERVE BOARD AUTHORITY.—  
19          The Board of Governors of the Federal Reserve Sys-  
20          tem may cease the collection of information with re-  
21          gard to any particular fee or charge specified in this  
22          subsection if the Board makes a determination that,  
23          on the basis of changing practices in the financial  
24          services industry, the collection of such information is

1 *no longer necessary to accomplish the purposes of this*  
2 *section.*

3 “(c) *ANNUAL REPORT TO CONGRESS REQUIRED.*—

4 “(1) *PREPARATION.*—*The Board of Governors of*  
5 *the Federal Reserve System shall prepare a report of*  
6 *the results of each survey conducted pursuant to sub-*  
7 *sections (a) and (b) of this section and section*  
8 *136(b)(1) of the Consumer Credit Protection Act.*

9 “(2) *CONTENTS OF THE REPORT.*—*In addition*  
10 *to the data required to be collected pursuant to sub-*  
11 *sections (a) and (b), each report prepared pursuant to*  
12 *paragraph (1) shall include a description of any dis-*  
13 *cernible trend, in the Nation as a whole, in a rep-*  
14 *resentative sample of the 50 States (selected with due*  
15 *regard for regional differences), and in each consoli-*  
16 *dated metropolitan statistical area (as defined by the*  
17 *Director of the Office of Management and Budget), in*  
18 *the cost and availability of the retail banking services,*  
19 *including those described in subsections (a) and (b)*  
20 *(including related fees and minimum balances), that*  
21 *delineates differences between institutions on the basis*  
22 *of the type of institution and the size of the institu-*  
23 *tion, between large and small institutions of the same*  
24 *type, and any engagement of the institution in*  
25 *multistate activity.*

1           “(3) *SUBMISSION TO CONGRESS.*—*The Board of*  
2           *Governors of the Federal Reserve System shall submit*  
3           *an annual report to the Congress not later than June*  
4           *1, 2005, and not later than June 1 of each subsequent*  
5           *year.*

6           “(d) *DEFINITIONS.*—*For purposes of this section, the*  
7           *term ‘insured depository institution’ has the meaning given*  
8           *such term in section 3 of the Federal Deposit Insurance Act,*  
9           *and the term ‘insured credit union’ has the meaning given*  
10           *such term in section 101 of the Federal Credit Union Act.”.*

11           (2) *CONFORMING AMENDMENT.*—

12                   (A) *IN GENERAL.*—*Paragraph (1) of section*  
13                   *136(b) of the Truth in Lending Act (15 U.S.C.*  
14                   *1646(b)(1)) is amended to read as follows:*

15                   “(1) *COLLECTION REQUIRED.*—*The Board shall*  
16                   *collect, on a semiannual basis, from a broad sample*  
17                   *of financial institutions which offer credit card serv-*  
18                   *ices, credit card price and availability information*  
19                   *including—*

20                           “(A) *the information required to be dis-*  
21                           *closed under section 127(c) of this chapter;*

22                           “(B) *the average total amount of finance*  
23                           *charges paid by consumers; and*

24                           “(C) *the following credit card rates and*  
25                           *fees:*

1           “(i) *Application fees.*

2           “(ii) *Annual percentage rates for cash*  
3           *advances and balance transfers.*

4           “(iii) *Maximum annual percentage*  
5           *rate that may be charged when an account*  
6           *is in default.*

7           “(iv) *Fees for the use of convenience*  
8           *checks.*

9           “(v) *Fees for balance transfers.*

10          “(vi) *Fees for foreign currency conver-*  
11          *sions.”.*

12          (B) *EFFECTIVE DATE.*—*The amendment*  
13          *made by subparagraph (A) shall take effect on*  
14          *January 1, 2004.*

15          (3) *REPEAL OF OTHER REPORT PROVISIONS.*—  
16          *Section 1002 of Financial Institutions Reform, Re-*  
17          *covery, and Enforcement Act of 1989 and section 108*  
18          *of the Riegle-Neal Interstate Banking and Branching*  
19          *Efficiency Act of 1994 are hereby repealed.*

20          (d) *TECHNICAL AND CONFORMING AMENDMENTS.*—  
21          *Section 19 of the Federal Reserve Act (12 U.S.C. 461) is*  
22          *amended—*

23                 (1) *in subsection (b)(4) (12 U.S.C. 461(b)(4)), by*  
24                 *striking subparagraph (C) and redesignating sub-*

1 paragraphs (D) and (E) as subparagraphs (C) and  
 2 (D), respectively; and

3 (2) in subsection (c)(1)(A) (12 U.S.C.  
 4 461(c)(1)(A)), by striking “subsection (b)(4)(C)” and  
 5 inserting “subsection (b)”.

6 **SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY**  
 7 **IN SETTING RESERVE REQUIREMENTS.**

8 Section 19(b)(2)(A) of the Federal Reserve Act (12  
 9 U.S.C. 461(b)(2)(A)) is amended—

10 (1) in clause (i), by striking “the ratio of 3 per  
 11 centum” and inserting “a ratio not greater than 3  
 12 percent (and which may be zero)”; and

13 (2) in clause (ii), by striking “and not less than  
 14 8 per centum,” and inserting “(and which may be  
 15 zero),”.

16 **SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

17 (a) *IN GENERAL.*—Section 7(b) of the Federal Reserve  
 18 Act (12 U.S.C. 289(b)) is amended by adding at the end  
 19 the following new paragraph:

20 “(4) *ADDITIONAL TRANSFERS TO COVER INTER-*  
 21 *EST PAYMENTS FOR FISCAL YEARS 2003 THROUGH*  
 22 *2007.*—

23 “(A) *IN GENERAL.*—In addition to the  
 24 amounts required to be transferred from the sur-  
 25 plus funds of the Federal reserve banks pursuant

1           to subsection (a)(3), the Federal reserve banks  
2           shall transfer from such surplus funds to the  
3           Board of Governors of the Federal Reserve Sys-  
4           tem for transfer to the Secretary of the Treasury  
5           for deposit in the general fund of the Treasury,  
6           such sums as are necessary to equal the net cost  
7           of section 19(b)(12) in each of the fiscal years  
8           2003 through 2007.

9           “(B) ALLOCATION BY FEDERAL RESERVE  
10          BOARD.—Of the total amount required to be paid  
11          by the Federal reserve banks under subparagraph  
12          (A) for fiscal years 2003 through 2007, the  
13          Board of Governors of the Federal Reserve Sys-  
14          tem shall determine the amount each such bank  
15          shall pay in such fiscal year.

16          “(C) REPLENISHMENT OF SURPLUS FUND  
17          PROHIBITED.—During fiscal years 2003 through  
18          2007, no Federal reserve bank may replenish  
19          such bank’s surplus fund by the amount of any  
20          transfer by such bank under subparagraph (A).”.

21          (b) TECHNICAL AND CONFORMING AMENDMENT.—Sec-  
22          tion 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is  
23          amended by adding at the end the following new paragraph:

24                 “(3) PAYMENT TO TREASURY.—During fiscal  
25                 years 2003 through 2007, any amount in the surplus

1       *fund of any Federal reserve bank in excess of the*  
2       *amount equal to 3 percent of the paid-in capital and*  
3       *surplus of the member banks of such bank shall be*  
4       *transferred to the Secretary of the Treasury for de-*  
5       *posit in the general fund of the Treasury.”.*

6       **SEC. 7. RULE OF CONSTRUCTION.**

7       *In the case of an escrow account maintained at a de-*  
8       *pository institution in connection with a real estate trans-*  
9       *action—*

10               (1) *the absorption, by the depository institution,*  
11               *of expenses incidental to providing a normal banking*  
12               *service with respect to such escrow account;*

13               (2) *the forbearance, by the depository institution,*  
14               *from charging a fee for providing any such banking*  
15               *function; and*

16               (3) *any benefit which may accrue to the holder*  
17               *or the beneficiary of such escrow account as a result*  
18               *of an action of the depository institution described in*  
19               *subparagraph (1) or (2) or similar in nature to such*  
20               *action,*

21       *shall not be treated as the payment or receipt of interest*  
22       *for purposes of this Act and any provision of Public Law*  
23       *93–100, the Federal Reserve Act, the Home Owners’ Loan*  
24       *Act, or the Federal Deposit Insurance Act relating to the*  
25       *payment of interest on accounts or deposits at depository*

1 *institutions, provided, however, that nothing herein shall be*  
2 *construed so as to require a depository institution that*  
3 *maintains an escrow account in connection with a real es-*  
4 *tate transaction to pay interest on such escrow account or*  
5 *to prohibit such institution from paying interest on such*  
6 *escrow account. Nor shall anything herein be construed to*  
7 *preempt the provisions of law of any State dealing with*  
8 *the payment of interest on escrow accounts maintained in*  
9 *connection with real estate transactions.*



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