

**SENATE CONCURRENT
RESOLUTION No. 142**

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 30, 2023

Sponsored by:

Senator MICHAEL L. TESTA, JR.

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Urges Congress and President to prohibit private financial institutions from penalizing individuals for exercise of free speech.

CURRENT VERSION OF TEXT

As introduced.



SCR142 TESTA

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1 **A CONCURRENT RESOLUTION** urging Congress and the President to
2 prohibit private, federally regulated financial institutions from
3 penalizing individuals for exercise of constitutionally protected
4 speech.

5
6 **WHEREAS**, Allegations of big technology companies censoring certain
7 speech, including political opinions, have given rise to growing
8 controversy over the potential for companies to influence public
9 opinion; and

10 **WHEREAS**, PayPal, Inc., a money transmitter licensed in this State that
11 provides virtual financial services, notified users in September 2022
12 that its Acceptable Use Policy would prohibit, beginning November
13 3, 2022, the use of its services to send, post, or publish content that,
14 in the company's sole discretion, promotes misinformation; and

15 **WHEREAS**, The same policy would have penalized users who violated
16 a list of other prohibitions on use of services for expression,
17 concluding with a broad restriction on content that, in PayPal, Inc.'s
18 sole discretion, is otherwise unfit for publication; and

19 **WHEREAS**, PayPal, Inc.'s Acceptable Use Policy would have
20 permitted the company to fine violating users \$2,500, which could
21 have been pulled directly from users' accounts; and

22 **WHEREAS**, PayPal, Inc. retracted its policy update following outrage
23 from the company's users and the general public; and

24 **WHEREAS**, Financial institutions are widely depended upon in the
25 United States and New Jersey as a critical part of personal or
26 business life; and

27 **WHEREAS**, PayPal, Inc. is one of many such financial institutions
28 licensed and regulated in New Jersey; and

29 **WHEREAS**, Federal law regulates a broader range of activity by
30 financial institutions than the laws of this State alone; and

31 **WHEREAS**, The United States is therefore able to effect broad
32 protections for consumers who otherwise may be subject to policy
33 changes like the one intended by PayPal, Inc.; and

34 **WHEREAS**, The Constitution of the United States protects freedom of
35 speech and freedom of the press in the First Amendment; and

36 **WHEREAS**, New Jersey strongly values and protects the freedom of
37 expression and freedom of the press in the State Constitution; now,
38 therefore,

39
40 **BE IT RESOLVED** *by the Senate of the State of New Jersey (the*
41 *General Assembly concurring):*

42
43 1. The Legislature of this State respectfully urges Congress and
44 the President of the United States to enact legislation prohibiting
45 financial institutions organized or doing business under the laws of
46 the United States from penalizing individuals for expressing
47 constitutionally protected speech.

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1 2. Copies of this resolution, as filed with the Secretary of State,
2 shall be transmitted by the Clerk of the General Assembly or the
3 Secretary of the Senate to the President of the United States, the
4 Majority and Minority Leaders of the United States Senate, the
5 Speaker and the Minority Leader of the United States House of
6 Representatives, and each member of Congress elected from this
7 State.

STATEMENT

12 This resolution urges Congress and the President of the United
13 States to enact legislation prohibiting private financial institutions
14 from penalizing individuals for expression of constitutionally
15 protected speech.

16 A recent policy update notice from PayPal, Inc. indicated that its
17 services could not be used, starting November 3, 2022, to promote
18 misinformation, an infraction to be defined solely by PayPal, Inc.
19 and to result in a fine of \$2,500. Under the policy, PayPal, Inc.
20 would have also been able to penalize users who would have
21 violated other restrictions on expression, including on content that,
22 in the sole discretion of PayPal, Inc., is unfit for publication. Public
23 outrage led to the company retracting this change, but consumers
24 remain vulnerable to the decisions of private financial institutions to
25 implement similar policies going forward. Wide dependence upon
26 financial institutions in daily life renders their ability to implement
27 broad policies penalizing certain expressions inequitable.

28 This resolution urges Congress and the President to enact
29 legislation to protect consumers from such restrictions under federal
30 law, which has the potential to more broadly protect consumers than
31 state law alone.