how could they?—they had some inkling of it. And, of course, it was Franklin again who best captured the spirit of the moment. Gazing at the back of the President's chair, upon which the sun had been painted, Franklin commented:

> I have often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun.

Today, 211 years later, that sun continues to be in the ascendant. I hope and pray that it will remain so for another 211 years.

CONSUMER BANKRUPTCY REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3596

The PRESIDING OFFICER. Under the previous order, there will now be 5 minutes of debate equally divided on the Reed amendment, No. 3596. Who yields time? The distinguished Senator from Rhode Island.

Mr. REED. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. REED. Mr. President, this amendment is a very straightforward one. It would prohibit credit card companies from penalizing or terminating customers who pay their bills on time.

The core principle of this bankruptcy legislation that we are debating today is responsible borrowing, and being responsible for your debts. Here, we have a population of the most responsible borrowers, those who pay their bills timely and full each and every month. But what is happening is that there is a growing movement among credit card companies to penalize these individuals or to terminate their credit arrangements. I think it is wrong and I think we should do something about it here today.

The credit card industry claims it is too expensive to maintain these accounts. Frankly, if you look at the charges that they receive from merchants on each transaction, the very substantial interest rate that they charge for outstanding balances, and also the membership fees which now seem to be ubiquitous, those claims seem to be very hollow. Indeed, this should be an issue about not only responsibility but fairness, and also about whether we really do believe that if people conduct their lives appropriately, pay their bills on time, are responsible, that they should end up being penalized.

If we are talking, today, in this legislation, about responsible borrowing, how can we allow the most responsible borrowers in our society, ones who pay their bills each and every month, to be punished by these credit card companies?

I urge adoption of this amendment. I retain the remainder of my time.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I consume.

We have the chairman of the appropriate subcommittee willing to work with Senator REED to address this problem in the Banking Committee. My opposition to this is not so much a matter of substance but of procedure and not usurping the authority of that committee. It does need to be studied. I can tell you that in the Grassley-Durbin amendment, we have enhanced disclosure requirements to help consumers.

While I respect the Senator's view on price controls, my view is that forcing a credit card company to offer credit when it has made a business determination that it would lose money will only force increased prices on other consumers. This is something that the Banking Committee needs to take a very serious look at and do it before we do something that may help some but may also hurt others.

Mr. President, I am going to ask that this amendment be tabled after the Senator from Alabama speaks. I yield my remaining time to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama has 1 minute 58 seconds.

Mr. SESSIONS. Thank you, Mr. President.

The effect of this will be to require mandatory lending at no possible profit for a credit card company. We have 6,000 credit card issuers today. They are all providing different services; some charge a fee and you have to pay monthly, others don't. It is just not right for us, without a hearing, to even impose on a credit card company a duty to lend money in a way in which they will never be able to make a return.

I don't think we need to be entering into wage-and-price controls. We have a very vigorous free market, and, for the first time, interest rates are beginning to come down because we do have a lot of credit card companies competing out there. I think we ought not to intervene at this time. This is an unwise amendment. I understand the motivation behind it. It is not appropriate, and I oppose it strongly at this time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Forty-nine seconds.

Mr. REED. Thank you, Mr. President.

The credit card companies make a great deal of money even on those individuals who pay their bills on time. They have membership fees, fees from merchants when the transaction is processed, and they have additional ways to acquire fees.

I do not think it is a question of forcing an enterprise to give money away. What it is is a situation in which the credit card companies have come to us and said, ''There are all these irresponsible borrowers out there; we have to amend the bankruptcy laws so we are protected.'' Yet, when we point out they are punishing responsible borrowers, they rise up and say, ''That is an imposition on us.''

If we believe in responsible borrowing, we should support this amendment.

I yield back my time.

Mr. GRASSLEY. I move to table the amendment.

The PRESIDING OFFICER. All time has expired.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3595, offered by the Senator from Rhode Island, Mr. REED. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina (Mr. HOLLINGS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—47

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Brownback	Grassley	Santorum
Burns	Gregg	Sessions
Chafee	Hagel	Shelby
Coats	Hatch	Smith (NH)
Cochran	Helms	Smith (OR)
Collins	Hutchinson	Snowe
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	

NAYS—52

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Bond	Graham	Murkowski
Boxer	Harkin	Murray
Breaux	Hutchison	Reed
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Byrd	Johnson	Rockefeller
Campbell	Kennedy	Roth
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Specter
D'Amato	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

NOT VOTING—1

Hollings

The motion to lay on the table the amendment (No. 3596) was rejected.

Mr. REED. I ask unanimous consent to vitiate the yeas and nays on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 3596) was agreed to.

Mr. REED. Mr. President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. I ask unanimous consent we now move to the D'Amato amendment, regarding ATMs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. As soon as this is disposed of—which we don't think will take very long—we will move to the Dodd amendment.

The PRESIDING OFFICER. Will the Senator restate his unanimous consent request.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that we now move to the consideration of Senator D'AMATO's amendment to the bankruptcy bill, and immediately upon disposing of that, which we hope to do fairly shortly, we move then to the Dodd amendment, and we would have 40 minutes on the Dodd amendment, evenly divided.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, and to inquire of the managing Member, there would be no second-degree amendments.

Mr. GRASSLEY. That is in the agreement. We have to certify which amendment it is.

Mr. DODD. Mr. President, I notify the managing Member that it is the amendment on the credit card age limit.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, is there going to be a time limitation on the D'Amato amendment?

Mr. GRASSLEY. We felt that Senator D'AMATO would offer his amendment, and then I will move to table.

Mr. DURBIN. Is there a time limitation?

Mr. GRASSLEY. There is not.

Mr. DURBIN. Mr. President, reserving the right to object, we are supposed to conclude by 2 p.m. to take up another matter.

Mr. GRASSLEY. I ask unanimous consent that we have 15 minutes for the D'Amato amendment and 5, which probably won't be used, by the opposition prior to the motion to table.

Mr. DODD. Reserving the right to object, I would like 2 or 3 minutes on the D'Amato amendment.

Mr. GRASSLEY. I will give the Senator my time.

Mr. D'AMATO. Mr. President, I ask unanimous consent that we have 20 minutes for the proponents. I have a number of people who would like to speak. It is an important amendment and one we have tried to have considered by the full body. Then if the opposition wants 5 minutes, that is fine. That would still keep it under a half hour.

Mr. GRASSLEY. Mr. President, that is OK—with a motion to table at the end of the time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York is recognized.

AMENDMENT NO. 3597 TO AMENDMENT NO. 3559

(Purpose: To amend the Electronic Fund Transfer Act to limit fees charged by financial institutions for the use of automatic teller machines, and for other purposes)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. CHAFEE, Mr. DODD, Mr. BRYAN and Ms. MOSELEY-BRAUN, proposes an amendment numbered 3597 to amendment No. 3559.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. ___. PROHIBITION OF CERTAIN ATM FEES.

(a) DEFINITION.—Section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(12) the term 'electronic terminal surcharge' means a transaction fee assessed by a financial institution that is the owner or operator of the electronic terminal; and

''(13) the term 'electronic banking network' means a communications system linking financial institutions through electronic terminals.''.

(b) CERTAIN FEES PROHIBITED.—Section 905 of the Electronic Fund Transfer Act (12 U.S.C. 1693c) is amended by adding at the end the following new subsection:

''(d) LIMITATION ON FEES.—With respect to a transaction conducted at an electronic terminal, an electronic terminal surcharge may not be assessed against a consumer if the transaction—

''(1) does not relate to or affect an account held by the consumer with the financial institution that is the owner or operator of the electronic terminal; and

''(2) is conducted through a national or regional electronic banking network.''.

Mr. D'AMATO. Mr. President, this amendment would end the monopolistic, anticonsumer, anticompetitive practice of ATM double charges once and for all. It is cosponsored by Senators CHAFEE, DODD, HARKIN, BRYAN, and MOSELEY-BRAUN.

The amendment corresponds to my bill, S. 885, called the Fair ATM Fees for Consumers Act, which currently has 11 cosponsors. It would amend section 903 of the Electronic Fund Transfer Act to prohibit ATM surcharges imposed by ATM operators directly upon noncustomers using their machines.

The big banks would have you believe that if this amendment passes, ATMs are going to disappear. Absolute nonsense. Hogwash. It is simply not true. If they get rid of ATMs, then they are going to have to open up more branches and hire more people, and it is going to cost banks more money. Well, a transaction performed by a teller at a bank branch does cost more money.

Let's take a look at the genesis of the ATMs. When they were initially introduced to the consumer, great promises were made. Indeed, the banking community, I believe, had the support of just about everybody, including consumer groups, when they said: Look, we're moving into the modern era and the utilization of ATMs will save consumers money, it will reduce transactional costs.

Those benefits, indeed, were supposed to be passed on to the consumer. It made sense. Indeed, a network was set up—a network owned by Cirrus and Plus, really owned by the large money center banks. Interestingly, in order to induce others who may have started rival networks, they said: Don't worry, use our network, use the ATMs that we establish, because we will prohibit a double charge, a surcharge on top of an initial fee. So, therefore, those who might go into competition, such as the credit unions, the small community banks, and others, do not have to go through the cost and expense of setting up your own ATMs, because we will let your customers use our ATMs without any additional charge.

Indeed, up until April 1, 1996, the networks prohibited double charges. That was a self-imposition to see to it that all of the financial services that were offered in the banking community would be available, there would be one charge that the consumer's own bank could impose and pass along the money to the ATM operator. The bank would be compensated, but there would not be any additional charge for those who used an ATM that was not their bank's.

Let me say that the Congressional Budget Office reported that there were more than 122,000 ATMs in the United States before double charges were permitted nationwide. So this rubric, this nonsense, this incredible claim that, ''Oh, we are concerned about consumers and their choices, and we're concerned that they won't have these ATMs,'' that is just a lot of nonsense. Look at the facts—122,000 of the existing ATMs, or 74 percent, were in place before double charges.

Now, at last count, there were 165,000 ATMs. So in the past 2 years, you have had approximately 43,000 new machines come into use. That means that 74 percent—three-quarters of all the ATMs in

the United States—were in place before they were allowed to double charge.

Now, under the amendment, which has been cosponsored by many of my colleagues, ATMs would still be profitable. They have been raking in huge profits.

The banks were saving money because they saved a dollar for each transaction performed at an ATM rather than at a bank branch—and they made a profit on the use of the ATMs. But they weren't satisfied with that. Oh, no. They had to say that: On top of that, we are now going to add another charge. Guess what we are going to tell the consumer? A little flag goes up and says you will pay $1.25 more.

What is a person who, at lunchtime, has to take out $20, $30, or $40 supposed to do? Go running around looking for an ATM that doesn't have a double charge? No. The people are stuck. They are running late, or maybe it is getting dark. Are you going to go searching for an ATM that doesn't have that little flag going up? Or are they going to look for one that doesn't exist, because their bank, under the inducement years ago that they need not participate and open up their own ATMs, they said, ''We will rely on the network rather than try to find that mythical one''?

If you tried to find one in Washington, DC, you would not find one. Ninety percent of them in this region double charge. If you don't go to the institution where you do your banking, you are going to get whacked. This whacking costs the American people more than $3 billion more—$3 billion. The average family that uses another bank's ATM six times a month is going to pay about $200 a year more.

Do you know who it hurts? It hurts the little guy. It hurts the person who draws out that $30, $40 or $50, because the surcharge, which averages about $1.27, is paid in addition to the initial charge. Consumer groups have estimated the two charges average about $2.68 together.

Here is somebody trying to get out their $20 or $30 or $40—a senior citizen, a college student—and there is a $2.68 charge. That is a lot of money coming from the little guy. That is a heck of an interest rate. Years ago that would be called ''usury''—usury to get your own money. That is really incredible.

That is why we have come forth with this amendment. Some people say, ''Why are you getting into the private sector?'' I will tell you why. What you have today is anticompetitive. Banks say consumers always have a choice to use an ATM that does not double charge. That is a joke. Seventy-nine percent of the ATMs are now double charging. I predict that by the end of the year that number will be over 90 percent. This is a situation where the consumer has little, if any, choice.

Many of my colleagues have said to me, ''What is the big deal? It is only a couple of dollars.'' It may not be a big deal to us to pay an extra $3 when you are taking out $100 or $200. But it is a very big deal to senior citizens, to students and to working families who take out $20, $30 or $40 at a time.

ATM surcharges account for more than $3 billion a year. The fees themselves are skyrocketing out of control. The most common surcharge has increased from $1 to $1.50. That is right, when they introduced it, it started at $1. It is now $1.50. Forty-four percent of the ATMs charge $1.50 or more. It is going to go higher and higher unless Congress acts to stop it now. Keep in mind that this is a charge on top of a fee that the consumer is already paying to his or her own bank. It is a hidden bank fee. But they are paying.

A recent U.S. PIRG survey found that 83 percent of the banks charge their own customers an average of $1.18 per transaction whenever they use another ATM. When you add the most common charge to the average fee, that is $2.68. That is about $200 a year for a family that uses an ATM six times a month. That is outrageous.

Several States, including Connecticut—the State of my colleague, Senator DODD—Iowa, and Massachusetts are waging battles to ban double charges at the State level. But there is a question as to whether these measures would apply to federally chartered banks.

That is why Congress has to act. It has to act in order to preserve competition—in order to see to it that this monopolistic practice does not deprive people of real choice.

Mr. President, I hope my colleagues will look to help the little guy. This is an opportunity to give them the protection they so desperately need.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, how much time remains on the amendment of the Senator from New York?

The PRESIDING OFFICER. Ten minutes 29 seconds.

Mr. DODD. Mr. President, I ask that I use, say, 5 minutes and be notified when 5 minutes have transpired so that the author of the amendment has some additional time at the end to conclude his remarks.

Mr. President, there is little question that the surcharges seem to have become the No. 1 complaint by many consumers and consumer groups all across the Nation. Part of the reason for the increasing complaints in this area is the speed with which the surcharges have become attached to the ATM machines.

Frankly, I say to the Chair, and my colleagues, I was not an early supporter of the prohibition of these fees. When it was first proposed by the Senator from New York, I argued that we ought to let the market dictate how these fees would be set, convinced, as had happened with the credit card issue, that competition within the marketplace actually had the desired effect of creating a good level, a less decent level, and an understandable and rational level for fees and surcharges and grace periods, and the like, when it comes to credit cards.

It was my hope that would occur here with the ATM issue. The problem is that it just hasn't happened at all. We have had the opposite effect, in fact. Banks seem to have become more interested in acting like sort of an electronic Jesse James—taking their cut when the consumer wants to get access to their money. In fact, the Congressional Budget Office puts this a little more seriously in their study, noting:

> Paradoxically, the increase in supply of ATM machines has not led to the kind of reduction that would generally follow from supply and demand solutions.

This is the Congressional Budget Office testimony. My concern over the practice of surcharging was augmented by some other developments as well.

First was the decision by a major national bank to sue the State of Connecticut, my home State, to overturn my State's ban on surcharges. This demonstrated to me that the banking industry was unwilling to allow the individual States to make their own public policy decisions about this practice. As a result, it has become very clear that only Federal legislation would allow my State of Connecticut to maintain the protections for its citizens that it has chosen to enact.

In fact, the attorney general of my State, Richard Blumenthal, came to Washington and testified strongly in favor of the D'AMATO amendment. Let me quote him. He said:

> Federal legislation is vitally necessary to clarify our State's ability [a State rights issue] to enact such a prohibition. In addition, Federal legislation is necessary to ensure that consumers are protected from such fees whenever they use an ATM.

Also, let me note that despite Connecticut's ATM surcharge ban, the largest bank in my State announced, on July 14, that it was going to close some branches and open more ATMs around the State. The results rebut the argument that banks won't open new ATMs if this amendment passes. This is a living example where you have a ban, a moratorium on any new surcharges, and, yet, they are expanding the ATMs in my State.

So, clearly this ban, this legislation that is being offered by the Senator from New York, would not produce the results that its opponents are claiming.

Second, community banks in my State have expressed deep concerns that ATM surcharging could be used to give large banks with extensive proprietary networks an unfair advantage over community banks with fewer machines. Smaller banks are worried about this—not only consumers, but smaller banks are. This is particularly troublesome because of the regulatory and legislative decisions that allow banks to use the ATMs in the first place where, based upon the concept of universal access to the network, the

large banks are reneging on that commitment. That is how they got this in the first place. This was going to be universal access. They have basically backed off that commitment.

Lastly, I have become very concerned over changes in bank underwriting standards for commercial loans and for credit card companies, which I have raised before and which was the subject of a front page Washington Post article today. It is a great concern where you have now these normal banking fees being replaced by surcharges and the like as a way of offsetting lowering the standards for credit. This ought to be a great concern of all of us. And the Washington Post article highlights this. You can lower your standard on credit card allocation, because you can make up whatever the losses would be in this area. I think putting this issue aside is a very dangerous road for us to be going.

As I reviewed the materials in preparation for the Banking Committee hearing, I couldn't help but be struck by the fact that loan standards and credit card underwriting standards have slipped as revenues from fees, which are almost pure profit, have escalated. I can't help but wonder whether the profit from these fees—$3 billion in ATM fees and $1.1 billion from fees charged their own customers when someone else bounces a check—aren't giving bank officials a false sense of security about their lending practices. If true, then this may be the most corrosive effect aspect of the recent boom in consumer banking fees of all types.

For those reasons, Mr. President, I believe the D'Amato amendment deserves to be adopted by this body. I urge my colleagues to do so.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. I yield 2 minutes to the Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator from New York. I congratulate and commend the Senator from New York for his leadership in this area.

Mr. President, I am proud to be a cosponsor of this amendment to ban ATM surcharges. Over the past two years, the Banking Committee on which I serve has held numerous hearings on this issue. I think it is important to note that every time we have one of these hearings, more studies confirm what we have said all along: the practice of surcharging is anticompetitive, it exploits consumers and it should be banned.

When I was in law school at the University of Chicago, I was taught that competition in a free market is supposed to be all about lowering prices and providing better services to your customers in order to maintain market share. However, competition in a world of surcharging is like Alice in Wonderland, where nothing is as it should be. Surcharging actually encourages the abuse of a dominant position in the marketplace, promoting predatory prices. Competition in this instance is not about providing the best services for the best prices, rather it is about forcing your rivals out of the marketplace by raising their costs.

And these costs are spreading. ATM surcharges have soared since 1995, and consumers paid between $2.5 and $3 billion in surcharges last year. This figure is in addition to the almost $1 billion in interchange fees already collected for these same transactions. Seventy percent of all banks currently impose a surcharge, and the most common surcharge has risen from $1 to $1.50 over the last year.

If current trends continue, few ATMs will remain that have no surcharge, and consumers, despite surcharge warnings most institutions post on the computer screen or on the machine, will truly have no alternative but to be charged twice for the same transaction—especially now that some institutions are surcharging their own customers.

I am aware that there are some costs to convenience. The number of ATM machines has more than quintupled over the last decade. Americans used ATM machines billions of times last year, accessing their bank accounts and other financial services 24 hours a day, seven days a week. However the practice of surcharging has actually resulted in less convenience for many customers. The result of surcharges is ''the incredible shrinking ATM network,'' far less convenience, longer searches and longer waiting lines for those who seek to avoid these double fees. As the Federal Reserve Bank of New York concluded, ''to avoid surcharges, many consumers are likely visiting ATMs that are less convenient than those used previously.'' I know there are costs associated with deploying these new machines, handling increased transactions, and other maintenance and safety issues. However, consumers are paying quite a bit for the marginal ''convenience'' of these additional machines. According to David Balto of the Federal Trade Commission, assuming that surcharging has lead to the deployment of 40,000 new ATMs, the more than $2.5 billion in surcharges last year means that customers paid over $60,000 for each new ATM. Furthermore, banks do not just surcharge on new ATMs in remote locations, but on all of their machines. Therefore, many customers who may never use one of these new, remote ATMs pay for the ''convenience'' of having it exist.

Moreover, it should not be forgotten that banks moved customers to ATMs because, compared to teller transactions, ATMs were cheaper. According to a 1996 Mentis Corporation study, an ATM cash withdrawal from an in-branch ATM costs an average of 22 to 28 cents, while the cost of a teller transaction is 90 cents to $1.15. And in some cases, banks charge customers for completing transactions with a teller if those transactions could have been completed at an ATM.

Certainly ATMs are a convenience for customers, but the truth is that banks have deployed more ATMs because it means lower costs to banks.

I remember when banks paid their customers for the use of their money. Today, however, it's increasingly expensive for the average working family to manage even a simple banking account. Americans who make timely credit card payments, or no payments at all, face higher fees. Americans who avoid special banking services are considered unprofitable customers, and face higher fees.

Now, with ATM surcharges, Americans are discovering that they must pay banks more than an additional $155 each year simply to access their own money.

The market is out of whack. The public knows this is unfair, and their visceral reaction is a response to market excess.

I am hopeful that the financial industry will take the necessary steps to remedy this problem. If they do, I do not believe this provision should become law. Banks in some states have demonstrated a willingness to address this issue. I call on the rest of the industry to follow their lead. Otherwise, the government has a duty to correct the abuse of double charging people for accessing their own hard-earned dollars. In an era of unprecedented bank profits, it is clearly a case of greed over need. I strongly support this amendment and urge all of my colleagues to do the same.

Mr. President, there are sound economic reasons why this proconsumer amendment ought to be passed. Whether you care about consumer issues or banks, you ought to support Senator D'AMATO's amendment, which I am proud to cosponsor.

I thank the Chair. I thank Senator D'AMATO. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I do not know if there is anyone here ready to speak in opposition.

I see the Senator from Alabama.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I know this is a good-sounding and popular-appearing bill, but I am not one who enjoys going to banks and going in banks. Over the years, I have thoroughly enjoyed the opportunity to obtain the cash I need on a daily basis from ATM machines. In fact, it allows you to carry less cash in your pocket, and you can find ATM machines everywhere. They are exploding to every corner of America. Businesses have them. Grocery stores have them. And they cost money—$30-, $40-, $50-, $80,000 to put in one of those machines.

So it has been a remarkable, wonderful advancement for the people of America, that they can obtain money

on virtually any corner of a city, at their grocery store, at their bank, at their gas station, and so forth. This has been a wonderful advancement.

It seems to me particularly odd that we would say that a bank which is servicing someone who is not their customer, who does not have an account at their bank, and yet they might have spent $50,000 to put in this ATM machine, cannot charge a fee for it; that someone can use their machine without being able to charge a fee. It seems to me that would be an unreasonable thing. I think most banks don't have it free for their own customers.

I wish to make a number of points. While this fee, I don't suggest, would eliminate all ATM machines, I think it is quite reasonable to suggest that it would eliminate marginal machines, and as we know when we take money out of an ATM machine, it pops up on the screen how much the fee is. So if you are at a grocery store and you have your own bank machine down the street, but you would like to get your cash in the grocery store and they are not going to service you but for $1.50, you do have a choice. You have your choice of going to your bank or going to a machine that may charge less.

I hope and expect that as we have an expansion of machines, we may well find some of these fees will begin to drop rather than increase, and that has been the pattern in free enterprise since its beginning. So it seems to me that what we are suggesting is that on a bankruptcy bill, where at least with regard to this committee that deals with bankruptcy we are tacking on a credit card banking issue that was not part of the markup on this bill, it could jeopardize the bill and not be relevant to what we are considering.

I note that the Banking Committee on July 30 on a bipartisan 11-to-7 vote rejected this amendment. They considered it in some detail, and that committee, after careful consideration, balancing the great utility and advantage of having ATM machines at virtually every corner versus the cost of it, have opted in favor of allowing the continued expansion and convenience of more and more machines. I do not think there is any doubt that the growth in availability of machines will end and, in fact, it is likely that we will have a reduction in the number of machines, therefore reducing convenience.

Many bank machines are totally dependent on access fees, and many of these are particularly convenient to small businesses and small grocery stores. Many new ATMs in rural and other low-volume, high-convenience sites operated by nonbanks will be economically unfeasible. They will be closed. They will not exist. You simply have to be able to make a profit if you are going to provide a service. Nobody is going to invest $30-, $40-, $50,000 if they do not have any prospect of a return. We know that. We talk about the big banks, but it is not always big banks that are involved.

Mr. President, I believe that on this bankruptcy bill, we ought not to be dealing with banking issues and credit card issues. Those are matters that ought to be held in those committees and, in fact, they have been considering it. I urge the Members of this body to wait for another forum, another time to deal with this issue and reject this amendment because it is not good economics. It is not good public policy to limit the expansion and the convenience and accessibility of ATM machines.

I thank the Chair.

Mr. BAUCUS. Mr. President, I rise in opposition to the amendment offered by the Senator from New York. First let me say that I have a great deal of sympathy for the problem that the Senator is attempting to address. When banks first began to install ATM machines, I remember the reluctance many consumers expressed about this new technology. They were worried about whether their deposits would be safe, whether strangers would find it easier to get into their bank accounts and steal their money. The banks initially sold consumers on the use of the machines by calling them a cost-saving measure—ATMs were supposed to help banks cut costs by allowing them to serve more people for longer hours, without the need for high employee salaries or costly new branches.

In those early years, it appeared that these claims were paying off. And consumers became addicted to the convenience. No longer did you have to spend your lunch hour at the bank's drive-in window to deposit a paycheck—you could do it after work at the ATM instead. Consumer demand also led to an unexpected growth of ATM machines located in businesses other than banks. Now you can do your banking at the grocery store, the convenience store, the airport—any other place where there is demand.

But the economics of operating ATMs in those remote locations are not the same as operating them in the bank building itself. It is a lot more expensive to service the machines, collect and process deposits every day, or to provide security. And the networking banks have provided means more consumers are using ATM machines at banks other than their own—again with higher operating costs.

The convenience of banking virtually any place at any time has its cost. ATM fees allow banks to recoup at least some of those costs from the consumers using the services.

I know that ATM fees rankle those of us who don't appreciate having to pay a fee to have access to our own money. And I also understand the arguments of the Senator from New York and others who claim big banks are making large profits from their fees.

However, I also believe that ATM fees represent the purest form of user fee. If consumers don't want to pay the fees, they don't have to use the ATMs. But for those who are willing to pay, the fees allow banks to provide ATMs in more locations, making it more convenient to do our banking.

If the D'Amato amendment is approved, two things will happen.

First, banks will immediately reevaluate the economics of all their ATMs, and those that are the least cost-effective will simply be removed. Rural areas, like those in my State of Montana, will be particularly hard hit. The low volume of usage, combined with the higher cost of maintenance because of the distances involved, will make many rural ATMs unaffordable for the sponsoring banks.

Let me give you just one example sent to me by the 1st Bank of Sidney, Montana. Sidney is a town representative of a lot of towns throughout Montana and other rural parts of our country. 1st Bank has an ATM machine at a 24-hour gas station and convenience store located on the main street through town. Even with the current ATM fee, 1st Bank lost almost $8,000 on that machine in 1997. Now $8,000 doesn't sound like a lot of money, but in states like Montana, believe me it can be.

I don't know whether 1st Bank will close this particular ATM if they are not allowed to recoup at least part of their costs by charging a fee. I do know that right now, hundreds of Montanans who used that machine in 1997 had a choice—if they didn't think the convenience of the machine was worth the $1.00 fee, they didn't have to use the machine.

If the ATM is removed because the bank decides it isn't worth the cost, we have legislatively taken from these consumers the ability to make that choice. They won't be able to decide on their own whether the convenience is worth the cost. We will force them to find other ways to do their banking.

Approval of the D'Amato amendment will also have a second consequence, that I believe we need to consider. Right now, those who use ATMs pay for the convenience. In places where the fees don't cover the costs of operating the machines, those of us who don't use ATMs, or don't use them frequently, help subsidize those who do. Eliminating the ability to charge those who benefit from the convenience of an ATM simply makes it that much more difficult for the rest of us to avoid these charges.

The old adage ''there is no free lunch'' is very applicable here. Someone has to pay the cost of operating an ATM. If we prohibit banks from charging those who use ATMs, it simply means everybody else will end up picking up the tab. And it won't matter whether we discipline ourselves to do our banking inside the bank, through the drive-in window, or electronically in order to avoid the fees. Every transaction will carry part of the cost of operating that ATM, because it will be built into the banks' operating costs.

Mr. President, I don't think those of us here in Washington, DC, should be

dictating to consumers how to do their banking. I believe consumers should be allowed to continue deciding for themselves whether the convenience of an ATM is worth the cost. If enough consumers decide the answer is no, the marketplace will correct itself. Banks will be forced to reduce fees and cull out less profitable locations.

But this will happen in response to consumer demand, not legislative fiat. I believe this it the right answer.

I urge my colleagues to vote against the D'Amato amendment.

Mr. FEINGOLD. Mr. President, I am pleased to support the amendment offered by the Senator from New York (Mr. D'AMATO).

This amendment is about simple fairness.

Mr. President, banks, credit unions, and the other owners of automatic teller machines are entitled to be compensated for the service they offer.

But consumers are also entitled to be treated fairly.

The D'Amato amendment strikes that balance.

This amendment does not fix prices.

It does not limit what ATM owners may charge for using their machines.

It simply prohibits charging consumers twice for the same service.

Mr. President, consumers become subject to ATM charges when they obtain an ATM card through their bank or credit union.

While the consumer's bank or credit union often has its own ATM machines at which account holders can bank, increasingly, banks and credit unions join a network of ATMs to give their account holders greater access.

Mr. President, when your bank or credit union joins an ATM network, it pays what is called an interchange fee to the network, and your bank or credit union may pass the cost of that interchange fee directly to you, or it may just add it into their overall cost of doing business—a cost that account holders help to bear.

But, Mr. President, consumers are now being forced to pay an additional fee, a surcharge, for using a network ATM.

When that happens, the consumer is being billed twice for the same transaction—once by their own bank, and once by the ATM owner.

Mr. President, consumers who are already charged by their own banks or credit unions for using an ATM feel that once is more than enough.

When consumers are charged twice for the privilege of accessing our own hard-earned money through an ATM, it's time for this body to take some action.

Mr. President, not only are consumers now being asked to pay twice for the privilege of accessing their own money, the second fee, or surcharge, often represents a big portion of the cash they want to withdraw.

The Senator from New York noted consumers may be hit with a surcharge of $3 or more just to take $20 out of their account.

This is especially a problem for consumers in under-served areas.

Because they lack ready access to their bank or credit union, those consumers are much more dependent on ATMs for every day financial services.

Mr. President, let me note here that not all ATM networks subject consumers to this double billing.

I understand there have been efforts, especially by community banks, to form networks that explicitly do not charge consumers twice.

While I applaud those efforts, they may not be enough.

Mr. President, in addition to the fundamental unfairness of these double charges to consumers, I am troubled that this fee structure may also put smaller banks and credit unions at a competitive disadvantage.

Customers seeking to avoid these double charges may move their accounts to larger banks that own these broad-based ATM networks, and as we've seen recently, these big banks are now merging with each other, which will only make matters worse for their smaller competitors.

Indeed, Mr. President, in this regard there have been some troubling developments in the past few weeks.

In particular, I was disturbed to hear reports that the Department of Justice is investigating whether or not some of the large ATM networks are engaging in illegal restraint of trade by seeking to prevent smaller banks from forming those very alliances that promise not to double charge consumers.

Mr. President, this amendment will end double-billing at ATMs.

It will ensure fairness for consumers, and it will put a stop to efforts that undermine the ability of our smaller community financial institutions to retain their customer base.

Mr. President, it's time to demand fairness for ATM users.

Paying additional fees at the ATM is something consumers can afford to live without.

Mr. KENNEDY. Mr. President, I rise in support of Senator D'AMATO's amendment to ban ATM surcharge fees.

This is good policy, and we all ought to vote in favor of it.

These fees, which in some instances have reached exorbitant levels like $5 or $10 per transaction, are charged against consumers to access their own money.

The large bank networks, which typically operate the automatic teller machines, already charge a transaction fee to smaller banks for the use of their network.

These surcharges are a second charge, directly to the consumer, for the privilege of using the machine.

Some have argued that consumer behavior has changed, so that consumers can learn how to minimize surcharges. They can do this by getting cash back on debit card purchases, or by taking more money out at one time.

But these are the savvy consumers, or those who are able to take out a large amount of money at one time. The consumers who end up paying these fees are those who have the fewest options: their money is tighter, or they are in an emergency situation, or they don't understand the system enough to avoid these fees. Do we want to protect the rights of the banks to take advantage of those consumers?

The banks now charge the consumer at every turn. They first said that tellers were too expensive and encouraged us to use machines. Now they charge both the consumer, and the consumer's bank, for the privilege of using the ATM machine.

This gouging of the consumer has to stop!

Some have argued that we should allow banks to police themselves on this issue. In my home state of Massachusetts, for example, the Massachusetts Bankers Association has worked to organize fee free alliances between big and small banks so that consumers can use machines statewide and avoid surcharges. This is a terrific program, and I compliment the MBA for developing it.

Truly progressive organizations, like Fleet Bank which operates throughout New England, have agreed not to charge fees for ATM use in low and moderate income communities. This is progressive corporate policy, and I salute them for it.

These financial institutions can be a model for the nation.

Unfortunately, there are not enough banks like those in my home state.

And so we must pass this amendment. We have heard from consumers, and they have had enough.

I know banks have heard from their customers in response to these charges. They have complained about it, loud and clear.

If banks had been proactive and responded by policing themselves, we would not be compelled to pursue an amendment such as this.

These exorbitant charges are an outrage! The Senate must act to protect the consumer from excessive charges.

In a time in which we are debating bankruptcy legislation, which has been supported strongly by banks and credit card companies, we also need to enact some provisions which will help the working men and women of this country.

We must end the gouging of the American consumer! I urge my colleagues to join with me in supporting Senator D'AMATO's amendment.

Mr. SPECTER. Mr. President, the D'Amato amendment to limit fees charged by financial institutions for the use of automatic teller machines is a very close question, in my opinion, because it pits the consumer's interest in avoiding potentially excessive bank charges against existing market forces where ATM machines provide significant convenience for the depositor's access to cash.

On this state of the record, I do not believe that there has been a showing

of excessive charges on the part of the banks. This issue might well be revisited in the Banking Committee with hearings, as opposed to being a floor amendment on this bill where the Judiciary Committee, on which I serve, did not have the benefit of an evidentiary record on the issue of excessive charges.

On the other hand, I do believe that there is substantial benefit and convenience to the consumer who has access to a cash withdrawal, far from home, at unusual hours and under circumstances where it is a significant convenience to be able to get the cash.

I know that when I go to a convenience store, for example, to buy milk, and pay a higher price, I dislike it; but I am mindful of the fact that it is late at night or I don't have to stand in a long line in a supermarket or it is on my way home. So, I grin and bear the somewhat higher charge.

In addition, there may be substantial merit to the contention that if the Congress acts to affect the market on this issue that the ATM machines will not be available or may be very few in number to reduce this convenience.

Accordingly, on this state of the record, on a very close question, I am voting against the D'Amato amendment.

Mr. DORGAN. Mr. President, I rise to discuss briefly my thoughts about the automated teller machine (ATM) fee ban amendment offered today by Senator D'AMATO to the bankruptcy reform bill.

I share the concerns that Senator D'AMATO and others have about the rapid, and seemingly unchecked, increases in ATM fees across this country over the past few years. There is compelling evidence that some banks are charging exorbitant ATM charges that impose an unnecessary and unfair financial burden on bank customers. For many consumers, this happens every time they use an ATM that's not owned by their bank. And there appears to be no end in sight to this explosion in ATM fees. I do applaud the work of Senator D'AMATO and others for bringing attention to this growing problem.

But regrettably, I was forced to vote against Senator D'AMATO's amendment, as drafted, because it failed to recognize that many of our rural communities have significantly higher costs for providing many kinds of services. I'm afraid that adopting Senator D'AMATO's approach may actually be harmful for people living in these higher-cost areas. In my judgment, this amendment might have forced some of our banks to shut down existing ATMs in more sparsely populated areas in our state or made it too costly for them to install new ones in places where they are needed.

Let me be clear on this point. I would have liked to support a proposal to stop those ATM owners who are charging excessive and, in some cases, outrageous fees. And I'm willing to consider other approaches to help put the brakes on ATM price gouging. Unfortunately, the amendment that Senator D'AMATO offered today is one that I could not support because it may inadvertently hurt rural America.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent that at the conclusion of the debate, the pending D'Amato amendment be temporarily laid aside and the Senate proceed to the debate on the Dodd amendment. I further ask that at 2 p.m. the Senate proceed to a vote in relationship to the Dodd amendment, to be followed immediately by a vote on or in relationship to the D'Amato amendment, with no intervening action and 2 minutes of debate between each vote. I further ask that the partial-birth abortion debate begin immediately following the vote in relationship to the Dodd amendment under the 4 hours outlined in the previous consent agreement.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, I think the Senator means the D'Amato amendment, at the conclusion of the vote on the D'Amato amendment.

Mr. GRASSLEY. Yes.

Mr. DODD. I think the Senator said the Dodd amendment. I think he means the D'Amato amendment. Is that correct?

Mr. GRASSLEY. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Might I inquire how much time I have remaining.

The PRESIDING OFFICER. The Senator has 2 minutes 53 seconds.

Mr. D'AMATO. Mr. President, I ask unanimous consent, because I do not believe it will impede on the time allocated for consideration of the Dodd amendment—we will not go past 2 o'clock—that we have an additional 5 minutes for the proponents because I have some Members here who would like to speak to this.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, reserving the right to object, there are a number of amendments on this bill, and we have to finish this bill by 2 o'clock. I just think that there has always been an advantage on floor time for the proponents and not opponents. I know Senator GRASSLEY has no time. I reluctantly object.

Mr. GRASSLEY. I suggest we amend it by giving 5 minutes to Senator SESSIONS.

Mr. D'AMATO. Sure. If he would like, 5 minutes each. I would ask that we have——

Mr. SESSIONS. I would certainly go along with Senator GRASSLEY. I am not sure I will use any time. If Senator GRASSLEY is comfortable with it, I withdraw my objection.

Mr. D'AMATO. I thank the Senator.

I yield 3 minutes to Senator BRYAN.

Mr. BRYAN. Mr. President, I thank the distinguished chairman of the subcommittee for his leadership on this issue. The banking industry is enjoying its sixth straight year of record profits, which topped $60 billion last year. That is good news. But unfortunately, as part of a growing trend, these record profits are coming from an increasing proliferation of fees on bank customers. The number of these separate bank fees has grown from 90 to 250 over the last 5 years.

Last year, banks made more than $3 billion alone on ATM surcharges. That is the new cash cow. And this is in addition to the $1 billion banks are paid as part of the interchange fee, which covers their cost of ATM transactions. So, that is where the surcharge comes in. The banks are already compensated through an interchange system. They are imposing an additional fee, a surcharge, which Senator D'AMATO and I and others object to, which, in effect, imposes a charge twice on the customer.

Mr. President, $1.50 or $2 for every ATM withdrawal may not seem like a lot, but over the course of a full year it adds up to several hundred dollars. Many banks for years prohibited these ATMs. In fact, three out of every four ATMs that are in place today were built before surcharges were prohibited, so the argument that somehow prohibiting the surcharge would limit the availability of ATMs is simply a specious argument. Two States that come to mind immediately, Connecticut and Iowa, prohibit ATM surcharges, and there is no evidence to suggest that customers in those two States are deprived of the option to use ATMs.

So, people, in effect, kind of feel entrapped. Initially the banks offered ATMs because they reduced the costs of their transactions. They are much less expensive than the teller transactions. Customers responded because of the convenience. A win-win proposition. Once customers got induced to use ATMs, then they got hooked, and now they are being reeled in by the bankers with these new charges, because the average ATM transaction cost is about 27 cents while a transaction involving a teller costs the bank roughly $2.93.

ATM charges are unfair, because the consumer is charged twice for the same transaction. Additionally, ATM surcharges have the anticompetitive effect of pressuring people to leave small banks—which may be their choice—for their larger banks, to avoid this double charge or the surcharge. I urge my colleagues to support the able and distinguished chairman and to support this.

Let me just tell you, both in Nevada and around the world, this is how the public views the ATM surcharge. You

will note from the chart there, the ATM reaches out with a loaded pistol and the customer is held hostage. That is what these ATM surcharges are all about.

I urge support for my colleague's thoughtful legislation, I yield the floor, and thank the Senator for extending the privilege of the floor to me.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I commend both my colleague from Connecticut and Senator BRYAN from Nevada for their thoughtful presentations.

I tell you, when I look at the ATM cartoon over there, that Senator BRYAN has put up, it is interesting because that is exactly what is taking place, particularly to so many young people who don't have a choice, to the student who is at his college campus and there are only one or two of those ATMs around and everyone of them is double charging. It is excessive—to think they are paying $2.68 to take out their own money. If you are taking out $30 or $40 at a time, as many of the young people are, and many of our senior citizens, that is usurious by any standard.

The argument that somehow this is going to hurt competition is rather pathetic. This has really hurt the small banks, the credit unions, because they were deceived into not getting into competition while a huge network was built; 122,000 out of the 165,000 machines were installed well before the double charges.

Let's take a look and see. Since the double charges, in the past 2 years, have been imposed—17 percent double charged going into 1996. The next year, it jumped to 59 percent. And the following year, 79—79 percent of all of the ATMs are now double charging. They came into existence and were making a profit before the surcharges. This is just a way of really doing what Senator BRYAN's description, the chart, showed so eloquently. You are really holding up the consumer, because it is anticompetitive, antichoice. This number, 79 percent—that is temporary. We have seen them grow. You will top out at over 90 percent by the end of next year, there is no doubt.

So there is little choice. There is no reason. It is anticompetitive, antipeople, and we should have the courage to say enough is enough. Let our States determine whether or not this should be permitted. When the State of Iowa and the State of Connecticut have attempted to ban double charges, surcharges, they have not seen a diminution. But now, even their law will be threatened, and is in court, as it relates to those States that want to protect consumers. So we are whipsawing them both ways, and there is only the Federal Government that can make a difference.

I hope my colleagues will join with me in voting to give people a real choice without that additional burden being placed on them.

Mr. President, I yield the floor. I thank my colleagues for permitting us the additional time to make known our thoughts and our views.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. Mr. President, may I inquire of the manager, does he intend to make a motion to table now? And then we will lay that aside and we can ask for the yeas and nays now? Would that save time?

Mr. GRASSLEY. I move to table the D'Amato amendment.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. I move the D'Amato amendment be set aside.

The PRESIDING OFFICER. By a previous order, the Senator from Connecticut is recognized.

AMENDMENT NO. 3598 TO AMENDMENT NO. 3559

(Purpose: To amend the Truth in Lending Act with respect to extensions of credit to consumers under the age of 21)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 3598 to amendment numbered 3559.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. ___. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

(a) IN GENERAL.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not reached the age of 21 unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not reached the age of 21 as of the date of submission of the application shall require—

''(i) the signature of the parent or guardian of the consumer indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has reached the age of 21; or

''(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.''.

(b) REGULATORY AUTHORITY.—The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out section 127(c)(5) of the Truth in Lending Act, as amended by this section.

The PRESIDING OFFICER. The Chair might say, under the previous order, there is 40 minutes equally divided.

Mr. DODD. Mr. President, one of the most troubling developments in the hotly contested battle among the credit card issuers to sign up new customers has been the aggressive way in which they have targeted people under the age of 21, particularly college students. We are engaged, obviously, in a debate about the bankruptcy bill here. The authors of this bill, and I commend them for it, recognize there has been an explosion of people who are taking advantage of the Bankruptcy Act to avoid their financial obligations.

It seems appropriate in the context of this bill that we also recognize that there has been an explosion of efforts to sign up younger people, particularly on college campuses, to credit cards, recognizing that, as many have pointed out, these students are ill prepared to meet their own financial obligations. Inevitably, they either incur debt and end up in tremendous difficulty or their parents assume the responsibilities, which can occur with upper-income people who can afford it.

Just this past August, to make the point, a fellow by the name of John Simpson, who is an administrator at the University of Indiana, said:

This is a terrible thing. We lose more students to credit card debt than academic failure, at the University of Indiana.

What I am trying to lay out here is a proposal that is not outrageous. Basically, what it says is if you are between the ages of 18 and 21—no contract is valid for someone under 18, so a credit card obligation for someone under 18 would be voided anyway. But between 18 and 21, either show that individual has independent economic means—a job or whatever—or parental permission. If you can do that, fine, then you can market and issue a credit card to those individuals. We set up separate standards on drinking in this country for those 21 and under, and for tax purposes. It seems to me this little window in here could save an awful lot of students, an awful lot of families, the kind of hardship.

Let me lay out the case for you here on a factual basis. Solicitations to this age group have become more intense for a variety of reasons. First, it is one of the few market segments in which there are always new faces to go after. It is also an age group in which brand loyalty can be established. In the words of one major credit card issuer, we are in the relationship business and we want to build relationships early on. Recent press stories have reported that people hold on to their first credit card for up to 15 years.

In fact, people under the age of 21 are such a hot target for credit card marketers that the upcoming card marketing conference this year—this is the

card marketing conference 1998, which is going to be held in Las Vegas. They have a seminar beginning at 12 noon on the day of this conference that is entitled ''Targeting Teens: You Never Forget Your First Card,'' to give you an idea of how much a part of this the credit card companies have in mind. As I say, this is indicating their deep interest in this constituency.

Credit card issuers are also enticing colleges and universities to help promote their products. Professor Robert Manning at Georgetown University here in Washington told my staff that some colleges receive tens of thousands of dollars per year for exclusive marketing agreements. Other colleges receive as much as 1 percent of all student charges from credit card issuers in return for marketing or affinity agreements.

Even those colleges who don't enter into such agreements are making money. Robert Bugai, president of College Marketing Intelligence, told the American Banker that colleges charge up to $400 per day for each credit card company that sets up a table on campus. That can run into the tens of thousands of dollars by the end of just one semester.

Last February, I went to the main campus of the University of Connecticut to meet with student leaders about this issue. Quite honestly, I was surprised by the amount of solicitations going on in the student union, and I was also surprised the degree to which the students themselves were concerned about the constant barrage of offers they were receiving.

The offers seemed very attractive, Mr. President. One student intern in my office this summer received four solicitations in just 2 weeks. One promised ''get eight cheap flights now while you still have 18 weeks of vacation.'' That is the solicitation, part of it geared to this young woman in my employment.

Another promised a platinum card with what appeared to be a low interest rate, until you read, of course, the fine print that it applied only to balance transfers, not to the account overall.

Only one of the four, Discover card, offered a brochure about credit terms, but in doing so, often offered a spring break sweepstakes in order to attract these students. In fact, the Chicago Tribune reported just last month that the average college freshman will receive 50 solicitations during their first few months at college. The Tribune further reported that college students get green-lighted for a line of credit that can reach more than $10,000 just on the strength of a signature and a student identification card.

Mr. President, there is a serious public policy question about whether people in that age bracket can be presumed to be able to make the sensible financial choices that are being forced on them from this barrage of marketing. While it is very difficult to get reliable information from the credit card issuers about their marketing practices to people under the age of 21, those statistics that are available are deeply, deeply troubling.

The American Banker newspaper reported that Visa found that 8.7 percent of bankruptcy filers were under the age of 25. A Chicago Tribune article from August 16 of this year cited that bankruptcies ''among those under 25 have doubled over the last 5 years from 250,000 to 500,000.''

The bankruptcy legislation, the underlying bill, is going to make it harder to take the bankruptcy act. I understand that. I am not opposed to that idea. But if simultaneously you are going out and aggressively sending eight solicitations to an 18-year-old in my office promising them free vacation breaks or flights, I think there is something wrong here.

I don't mind getting tougher on the bankruptcy laws, but I think we have to get a little tougher to say the 18-, 19- and 20-years-olds who have no independent financial means and without parental permission are getting signed up merely on a student ID card and signature, incurring $10,000 worth of debt.

The same survey found that 27 percent of undergraduate student applicants had four or more credit cards—27 percent, four or more credit cards—and found that 14 percent had credit card balances between $3,000 and $7,000, while 10 percent had credit card balances greater than $7,000. This figure of 24 percent with credit card debts in excess of $3,000 is more than double the number from last year.

Moreover, while there is evidence that student debt is skyrocketing, some surveys by credit card issuers themselves show that this same group of consumers is woefully uninformed about the basic credit card terms and issues. A 1993 American Express/Consumer Federation of America study found that only 22 percent of more than 2,000 college students surveyed knew that the annual percentage rate is the best indicator of the true cost of a loan. Only 30 percent of those surveyed knew that each bank set the interest rate on their credit card, so that it is possible to shop around for the best rate. Only 30 percent knew that interest was charged on new purchases if you carry a balance over from the previous month.

Some college administrators, bucking the trend to use credit card issuers as a source of income, have become so concerned that they have banned credit card companies from their campuses and have even gone so far as to ban credit card advertisements from the campus bookstores. Roger Witherspoon, Vice President of Student Development at John Jay College of Criminal Justice in New York, banned card solicitors saying indebtedness was causing students to drop out:

> Middle-class parents can bail out their kids when this happens, but lower-income parents can't—

Mr. Witherspoon said in an interview.

> Kids only find out later how much it messes up their lives.

That is a quotation from the American Banker.

The amendment I am proposing today does not take any such Draconian action against the credit card companies. Let me state, by the way—and I should have said this at the outset—many credit card companies do require parental notice or approval or evidence of independent means. There are many who do this, but there are some who do not at all. As most laws, it is not targeted to those who show good judgment and good sense, but to the few who do not. Unfortunately, here we have a few who do not at all.

This amendment does not go so far as to ban credit cards or ban advertising. It merely says, look, between the ages of 18 and 21, either show you have the independent means to meet the obligations or get a signature from a parent that they understand that their child is about to take out a credit card.

I agree with those who argue, as I said, there are millions of people under the age of 21 who hold full-time jobs who are as deserving of credit as anyone over the age of 21. I agree with that. I also believe students should continue to have access to credit, and we should not prohibit the market from making that available.

I also recognize the period of time from 18 to 21 is an age of transition from adolescence to adulthood, and as we do many places in Federal law, extra care is needed to make sure mistakes made from youthful inexperience does not haunt these people for the rest of their lives or a good part of it.

All my amendment does is require a credit card issuer, prior to granting credit, to obtain one of two things from the applicant under 21: Either they get the signature of a parent or guardian, or they obtain information that demonstrates the existence of an independent means of paying off the amount of credit offered.

Federal law already says people under age 21 shouldn't drink alcohol. Our Tax Code makes the presumption if someone is a full-time student under the age of 23 that they are financially dependent on their parents or their guardians.

Is it so much really to ask that credit card issuers, in the midst of a bankruptcy bill that will make it tougher for people to take this act, is it so much to ask that we try to find out if someone under the age of 21 is financially capable of paying back their debt or that their parents are willing to assume the financial responsibility?

Mr. President, it is my understanding that most, as I said, responsible credit card issuers already require this information in one form or another. Is it too much to ask the entire credit card industry to strive to meet their own best practices when it comes to our children?

Mr. President, I do not believe this amendment is either unduly burdensome on the credit card industry nor is

it unfair to the people under the age of 21. The fact of the matter is that these abusive solicitations assume that if the young adult is unable to pay, they will be bailed out by their parents. Many times this means that parents must sacrifice other things in order to make sure their child does not start out their adult life in a financial hold with an ugly black mark on their credit history.

By adopting this amendment, Mr. President, the Senate will send a clear message to those aggressive credit card companies that we will no longer countenance this abusive behavior. This amendment corrects that behavior by making those overly aggressive companies, credit companies, exercise their best judgment—instead of their most craven instincts—when it comes to people obtaining their own credit cards for the very first time.

Mr. President, I note as well in an interview on an NPR program just a few days ago on this very issue, Nancy Lloyd, who is the editor-at-large for Kiplinger's Personal Finance magazine, had this to say about this practice. She said:

> . . . that the real reason that credit-card companies are going after college students is that they know that after a parent has spent several tens of thousands of dollars to educate their student, that if they fall behind on their bills that the parent will bail them out, even though legally they don't really have to [if they are younger than 18].

Mr. President, I do not think this is a radical proposal here. It is again a huge problem. NBC, I think last evening, ran a special report on the ''Fleecing of America'' where they talked about this problem. I think there have been a number of other reports on this.

We began this issue last December in raising the question when I went to my own campuses in Connecticut, as I mentioned a moment ago, to find out how widespread this was. And, again, the information we have been able to gather indicates, I think based on the data we have, limited as it is, that this is a growing problem. The debt has doubled now in the last year. It is going to get worse.

If we adopt the underlying bill, which I hope we do, then obviously the ability to use the Bankruptcy Act to excuse obligations are going to get tougher. So it seems to me if we are going to do a favor to the banks by making it tougher for people to avoid their financial responsibilities, which we should, we should also send a message that we do not believe you ought to be dumping, as we did last year in this country, 3 billion credit card solicitations but particularly dumping these where there is a student ID and a signature from a 19-year-old, without independent means or parental approval, to assume $3,000, $4,000, $5,000, $6,000, $7,000, $8,000, $9,000, $10,000 worth of financial debt. I think that is wrong. I think we ought to try to stop it. I think this amendment brings us in the right direction, and I urge its adoption.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I know this amendment is well intentioned, but, look, I was a building tradesman as a young 16-year-old. I made a pretty good living as a building tradesman. I could have wound up as a building tradesman, which I was very proud to be. In fact, I have had some colleagues say I should have stuck with it. In fact, one of them, when they found out I was a janitor at one time putting myself through college, said I should have stuck with it. Maybe so.

But I would hate like heck to have some artificial rule or some regulatory rule by some regulatory agency of Government say that I, as a hard-working carpenter, would not be able to get a credit card and get credit that I might need for my family to make our lives a little easier because of artificial rulings like what happens as a result of this well-intentioned amendment.

This is a slap in the face of every 18-, 19-, 20-year-old—and 17-year-old, 16-year-old even—people who can work; 16-, 17-, 18-, 19-year-olds who work hard, who are supporting their families. They may not be college graduates, they may not look like they quite have the future of some who have gone to college and done the things that they have done—might look like—but they are not going to be able to get credit cards under this without going through some big rigmarole decided by Government.

This amendment would unfairly discriminate against young adults. I think it has to be opposed. I hope our colleagues will think about this. The amendment would require parental consent for extensions of open-ended credit to young adults under the age of 21—think of that—a lot of young adults who are supporting their families and doing what is right but have not been to college, or even those who have been to college or who are working well in college, as I had to do, unless they could demonstrate ''an independent means of repaying'' the obligation.

While it is not entirely clear what would constitute an ''independent means of repaying'' a debt, one thing is clear: This amendment would have the bizarre effect of requiring an emancipated but temporarily unemployed 20-year-old mother to obtain her parent's consent before receiving a credit card, or an unemployed 20-year-old carpenter who, because of seasonal layoffs, might not have a job for a couple of weeks, or maybe 3 weeks or maybe a month or two. I understand that life; I understand how difficult it is.

The same would be true with respect to a 20-year-old plumber or a construction worker, like I have mentioned, who is between jobs, in between jobs, and with respect to a 20-year-old recently discharged from the U.S. military and looking for civilian employment—somebody who is honorable and decent, would pay back any debt no matter what happened but could not get a credit card because of these artificial restraints.

Moreover, the amendment makes no provision whatsoever for a young adult whose parents or guardians may be deceased. It is also not clear what responsibility, if any, the amendment would impose on a lender to verify that the signature of a parent or a guardian was authentic.

In short, discriminating against individuals between the ages of 18 and 21 when it comes to obtaining credit simply cannot be justified just because we know it is pretty easy to get a credit card out there and it is abused from time to time. But this amendment furthers the abuse only in the opposite direction. Also, it is important to note that individuals under 18 cannot enter into binding contracts and, therefore, any credit inadvertently extended to them is unenforceable.

I encourage my colleagues to join me in opposing this amendment, notwithstanding some of the arguments on the other side of the aisle. It is important to note that not all 18-, 19- or 20-year-old kids are college students or unemployed or irresponsible or bums, if you want to say it. Some have families, some serve in the military and are asked to defend our country. It puts their ability to gain credit in doubt. Or should we just call it the way it is? In the hands of Federal regulators.

You know, there is a limit to everything. Yes, there are some abuses here. Yes, some of these credit card companies get some of these young people hooked on credit cards just thinking they can live with that credit card. But in the interest of solving that problem, do you abuse all the other honest, hard-working, decent young people between the ages of 18 and 21? Do you discriminate against them so that they cannot get a credit card that might make their lives maybe a little bit better or a little more livable or a little more sustainable?

My attitude is that this amendment ought to be defeated because it is a one-sided amendment that, in my opinion, has not been well thought through. That is not a knock at my colleague because I know he is sincere. I know he has good intentions here. I know there are some values that he is trying to defend. But I think the overwhelming weight of maturity is on the side of young people in that age group who deserve to have a credit card, who would pay back their credit card, who are responsible citizens, and who do not need the Federal Government to tell them what they can or cannot do in this area. The fact that we have a few credit card companies that abuse the system does not mean we should pass this type of an amendment.

I am happy to yield 5 minutes to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Utah for his

excellent remarks in pointing out a lot of people age 18 to 21 are not in college. I just had two children graduate from college, and I still have one in college. I believe a credit card is a good thing for them to have. Almost every college student is going to have a credit card. The fact that we have some competition in the credit card industry—they are offering lower rates and less charges if you will use their credit card—that is good. We have needed that.

In my opinion, the biggest complaint about credit cards is they charge too much interest. Those rates have been driven down because of competition. There are 6,000 credit card companies, and they are sending out mailings, and they are encouraging people to use their credit cards. What is bad about that?

What troubles me is we are saying if you want a young person to have a credit card, they may have to get their parents to sign as a cosigner and be financially responsible for their debt. That doesn't seem to me to be fair or correct. Maybe a parent says if you want to get a credit card you can, but it is your debt to pay, not mine. The requirement we are debating now would prohibit them from getting a credit card under those circumstances.

What about young persons whose parents are deceased?

The Federal Government should not be stepping in and telling a credit card company you can't take a chance on a young person, or that you have to get the parent to cosign before giving a young adult a credit card. This seems unhealthy to me. I am sure it is true that credit card companies like to get young people accustomed to using their cards and hope they will use them throughout their career. I don't know that there is anything wrong with that.

Mr. President, a 20-year-old who may be temporarily unemployed may find a credit card to be very valuable. Suppose you have to drive to a job interview and the guy down at the car inspection place says your vehicle emits too much pollution and you have to spend $400 to fix it; or your tire blows out and you have to have $75 to get the car towed and another $50 to put a tire on it. A person may not have that cash in their pocket at times such as these, when they really need it. That is why credit cards are a good thing.

Credit cards have been helpful in many ways for citizens in America. The problem is with people who abuse them and who don't show personal discipline. We all know that is a problem. We need to encourage personal discipline, not have the Federal Government telling a young person they can't have a credit card unless their parent agrees to pay their debt.

Mr. DODD. Mr. President, we have no intervening business between now and 2 o'clock. Several of our colleagues want to speak on this amendment. I ask unanimous consent we take the time between now and 2 o'clock and equally divide it between opponents and proponents of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I yield to my colleague from North Dakota.

Mr. DORGAN. Mr. President, I rise in support of the amendment. I have listened to the debate; it is an interesting debate, but I think all of us know what is happening in this country with respect to credit cards.

I noticed an article this morning in the Washington Post on the front page:

> Banks Risk New Wave of Bad Debt: Report Cites Easing of Credit Standards.

They are talking about commercial loans in response to competition; even though the risks will rise, they are easing standards, lowering lending standards.

What are the standards of lending for credit cards? Go to a college campus and look in the mailboxes and see the solicitations for these kids that have no jobs, no income, no independent means of paying. They get solicitations from companies halfway around the country.

The solicitation says we have something to offer you. You don't have money? We have money. We will give you a piece of plastic, and you get a preapproved range of credit. Sign this, send it in, and it is all yours.

It is Byzantine to me to see what is happening with the ''blizzarding'' of these credit cards all around the country, even to people without money.

Yesterday in our mail, my son got a solicitation from the Diners Club. My son, Brendon, is a great young guy. In fact, do you know what Brendon told me he wanted to do when he gets big? Brendon told me he wants to be like his grandpa.

Now, I know that doesn t sound surprising. But do you know why? It s because he wants to be retired, just like his grandpa.

You see, Brendon went to Arizona to see his grandpa, and Brendon watched his granddaddy and thought, that's what I want to do—sleep late, get up and golf a little bit, come home, have some lunch, take a nap, then watch television.

Brendon says, ''I like what grandpa has. I want to be retired.'' Brendon is only 11.

The Diners Club wrote to Brendon. Doreen Edelman, Senior vice president at Diners Club, wrote:

> Dear Brendon, Whether you travel for business or pleasure, wouldn't you like a Card that rewards your spending with something you could really use—frequent flyer miles on the major airline of your choice?

It says get our Diners card. You can go to lounges, you can go to fancy restaurants, you can rent cars, you can pay for your airline ticket.

I didn't show Brendon this last night because the fact that Brendon would like to be retired might persuade him that he would like a Diners Club card, too, but he is only 11. He doesn't have a job. He doesn't have any money. He isn't going to have a Diners Club card.

I don't know whether Doreen Edelman, senior vice president of the Diners Club, listens to this debate. In fact, it looks like she is from Sioux Falls, SD. Holy cow, I didn't think anybody from either of the Dakotas would think this way—that an 11-year-old boy ought to get a Diners Club card.

I know why he got this. They don't know him from a head of lettuce. They don't know Brendon Patrick Dorgan. They gathered the name someplace and sent him a little letter that says they would like him to get a Diners Club card.

It would serve them right to have all these 11-year-olds send this in, get the Diners Club card and go spend some money.

I come from a town of 300 people. If someone in business on the main street of my hometown said, Do you know what I want to do? I want to send some 11-year-old an invitation to have credit with us. That person would have to be drunk or just dumb. What are they thinking? That is what is happening.

I know this debate is a little more serious than that. It is about the explosion of credit cards to college kids and so on. I understand that. But this is a wonderful example of how ridiculous it has become, isn't it? It is just indiscriminate. Are you alive? Do you breathe? Do you have a name? Are you on a list? Congratulations, we would like to offer you some preapproved credit.

What kind of standard is that? What kind of business behavior is that?

I happen to support the underlying bill. I believe the pendulum has swung too far on bankruptcy. I think it ought to swing back some. I am prepared to support the underlying bill. I also believe those in this country who run these businesses and send solicitations to 11-year-old boys and solicit every college student in the country with credit cards with preapproved limits, I think they have some responsibility, as well. That is what the Senator from Connecticut is saying today with his amendment. They have some responsibility, too.

I am pleased, on behalf of Brendon, to support the amendment by the Senator from Connecticut. Perhaps we will make some progress in saying to those who extend credit in this country, yes, we believe bankruptcy laws ought to be adjusted some; you are right about that. We also believe you have some responsibility, which you have been ignoring with the solicitations you are making indiscriminately around this country.

I yield the floor.

Mr. DODD. Mr. President, I thank my colleague for his eloquent, and if it weren't so sad, quite humorous story.

Unfortunately, Brendon is not alone. This wasn't just a mistake. Unfortunately, parents can tell you all across the country that this happens with regularity.

Let me address, if I can, the argument of my good friend and colleague

from Utah and why he is opposed to this bill. The great irony is the 20-year-old who is out working and not in college is disadvantaged. That individual has to prove that they have independent economic means.

Listen to this recent report:

All the rules have been suspended when it comes to college students. They get a green light, a line of credit that can reach more than $10,000 just on the strength of a signature and a student ID. Almost comically, [the report says], low standards become much different after graduation and bona fide adulthood.

So the individual who is out working, who is not in school, who may have a real need for a credit card, has to go through far many more hoops than the students between the ages of 18 and 21 who can get these solicitations.

This wasn't Brendon. This was a 19-year-old—get eight cheap flights now while you still have 18 weeks of vacation. How about a platinum card to a 19-year-old without any indication of whether or not she can meet her payments?

I don't think it is outrageous to say, look, just show your independent economic means. You have a job, fine. Or get a parental signature. That is not asking too much. Just listen to the administrators at these universities. A terrible thing. We lose more students to credit card debt than academic failure now. The numbers have doubled. It is not overreaching to say to an 18- or 19-year-old that we are going to insist that you prove an independent economic ability to pay—the same as an 18- or 19-year-old would have to do were they not in college—or have a parental signature. Everybody knows that if you are under 18, you can't enter into a contract and have it binding. People have said, ''Why not just make it 18?'' Well, those contracts don't hold up and the bankruptcy laws would not cover it.

So between 18 and 21, we are just trying to cover those areas here, statistically. I talked about this study that was done and I failed to identify who did it. Nellie Mae, a major student loan provider in New England, conducted a survey of students who had applied for student loans. ''The results of the credit card examination is alarming.'' Those are their words, not mine. They found that 27 percent of the undergraduate student applicants had four or more credit cards, and 14 percent of the credit card balances, debt, between $3,000 and $7,000, and 10 percent in excess of $7,000. That is before they graduated from college, in addition to student loans.

So our efforts here—while the credit card companies see this, apparently, as draconian—will provide relief in the underlying bill. Requiring a little higher standard for college students before they get credit cards is not asking too much. I know the ranking member on the committee wanted to be heard on this, and I see my colleague from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I find it somewhat ironic and, frankly, indefensible that some of my colleagues on the other side of the aisle who are now arguing for parental consent here in order to obtain a credit card, would also argue against requiring parental consent for children who want to get an abortion. I have spent 22 years listening to that.

Now, Mr. President, they are arguing for parental consent for young adults between the ages of 18 and 21. Look, if they are willing to amend the amendment—every State in this Union, to my knowledge, refuses to give credit or allow credit to be granted to young people less than 18 years of age. So I think Senator DORGAN's son already fits within that category. We are talking about 18-, 19- and 20-year-olds who work, who are in the service, are capable of doing this, who should not have to get parental consent, should not have to justify it. I am talking against discrimination against young people of that age.

My friends on the other side argue for parental consent for young adults between 18 and 21. These are not even minor children. How can anybody argue, on the one hand, that if you are between 18 and 21 and you want a credit card, you have to get your parents' consent, and on the other hand you should not have to get parental consent if a minor wants to get an abortion? I don't know about you, Mr. President, but to me that sounds a little bit inconsistent—maybe a smidgen.

Every State in the Union, to my knowledge, refuses to give the right to grant credit to young people below 18 years of age. At least that is my understanding. So that is not even an issue. Despite all of the enjoyment we had from the remarks of the Senator from North Dakota, that isn't an issue. Are we going to discriminate against hard-working young people who are 18, 19 and 20 years of age, who should have a right to credit, just because we have some excesses in our society that really are not justified?

Mr. President, one of the arguments that I hear again and again is that the bankruptcy crisis in this country is the fault of credit card companies because they offer credit too freely to low- and moderate-income Americans. Opponent of reform have, during the hearing process, shown us piles of credit card solicitations to make their point. They want us to believe that the nation's bankruptcy crisis is the fault of easy access to credit, and not of the individual who abuses the bankruptcy system with all of its present loopholes.

First, I would like to say a few words about taking personal responsibility for our actions. In a free world, each of us is confronted with a variety of offers on a daily basis, some of which we should accept, and some of which we should not. It is the responsibility of the individual to decide whether or not to take on debt and it is the responsibility of the individual to live with the consequences of that decision. Before we can begin to make meaningful reform to the bankruptcy laws, we simple must stop the finger pointing and accept personal responsibility for our spending and borrowing practices. That said, if we look at the objective facts, it is apparent that credit card debt is only a small fraction—about 16 percent—of the debt of a typical bankruptcy filer.

The reason I have this chart up is because the yellow part of that, the higher part of it, shows the total consumer debtload. You will notice that between 1980 and 1997 the consumer debtload has remained about the same. But look at the red part, increase in consumer bankruptcy filings, which this bill would help to resolve. The increase in consumer bankruptcy filings has continued to go up off the charts. So the debtload doesn't appear to be the major problem. What is the major problem is the abuse of the bankruptcy system, which this bill would correct.

Surprisingly, as Americans continue to use consumer credit at about the same level as they have historically over the last few years, bankruptcy filings have more than quadrupled. In other words, as this chart demonstrates, the debt load that individuals carry has not changed very much. What has changed is the attitude of Americans toward bankruptcy. People turning to bankruptcy today are not in significantly more difficult debt that those in the past. But rather than taking responsibility and working their way out of debt, too many people are choosing bankruptcy as a first resort.

As I have said before, excessive bankruptcy filings hurt all of us. When someone who could pay their debts instead opts for bankruptcy, the rest of us effectively pay their unpaid bills for them. Bigger businesses and creditors raise prices and interest rates to offset their losses, and small businesses may actually be forced into bankruptcy themselves.

But his issue is not just about the impact of bankruptcy on the rest of us. It is about personal integrity and personal responsibility. When you borrow money from someone else, you make an implicit promise to do whatever you can to pay that money back. Our present bankruptcy laws undermine this basic principle. This bill will help solve that. They allow people who can repay their debts to avoid doing so because they find their debts ''inconvenient'' or because repaying their debts would require them to change their lifestyle.

Ironically, many of the people who say that we do not need to reform the bankruptcy code because easy access to credit is to blame, are the very same people who argue that poor and moderate income individuals desperately need, and should not be denied, credit. These are the same groups who, fifteen

years ago, complained that the credit industry granted credit only to the elite and wealthy, and deprived lower-income Americans of the important opportunity to use credit. And, these are the same people who vociferously argued just a few weeks ago in favor of the Community Reinvestment Act or CRA, which requires banks to extend loans and credit to low and moderate income Americans who live in low income areas.

Rather than reform the bankruptcy code, some have suggested imposing burdensome credit qualification standards on the credit card companies. Let me be clear: amending this bill to require onerous credit qualification standards will result in an immediate reduction in the availability of credit to lower-income individuals. And, imposing burdensome requirements on credit card companies that do nothing to help consumers—and that in fact hurt consumers by adding to the cost of being a credit card holder—is nothing more than an obvious attempt to derail bankruptcy reform. On the other hand, I remain open to measures that will help people become fully aware of the implications of debt before they incur it.

Mr. President, the explosion in bankruptcy filings has less to do with causes and more to do with motivations. The stigma of bankruptcy is all but gone. Bankruptcy has become a routine financial planning device used to unload inconvenient debts, rather than a last resort for people who truly need it. The rest of us end up footing the bill for abuses in the bankruptcy system in many forms, including higher prices and higher interest rates. What this legislation will accomplish is straightforward: If a person is able to repay some of what they owe, they will be required to do so. We must restore personal accountability to the bankruptcy system. If we do not, every family in America, many of whom struggle to make ends meet but manage to live within their means, will continue to shoulder the financial burden of those who abuse the system.

Mr. President, I do not mean to suggest that the bankruptcy system has failed us altogether. It provides a way for individuals who have experienced a a financially devastating event to get back on their feet. The problem we face is that current law does not simply allow bankruptcy filers to get back on their feet * * * it allows abusers of the system to get ahead of Americans who make good on their debts. S. 1301 is a common-sense bill that will provide a much needed adjustment to the bankruptcy system.

Again, I will end with what I started with. If my colleagues on the other side want to exclude those below 18 years of age, as the States basically do, so that credit card companies cannot solicit them, I would be more than happy to do that. I would be more than happy to grant that right now, right here on the floor. But if they are going to discriminate against 18-, 19-, and 20-year-old people who are hard-working, decent kids, some of them working at trades in society as I did, some of them working in the military, some of them who may be temporarily out of work but are good, honest people, then I have to say we have to fight against this amendment.

Last but not least, I will say that I find it ironic that they would require parental consent to get credit card credit while at the same time not requiring parental consent with regard to getting an abortion.

I reserve the remainder of my time.

Mr. DODD. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Two minutes, 40 seconds.

Mr. DODD. How much time remains on the other side?

The PRESIDING OFFICER. Four minutes, 30 seconds.

Mr. HATCH. Mr. President, I would be happy to yield our remaining time to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 4 minutes.

Mr. FAIRCLOTH. I thank Senator HATCH.

Mr. President, I agree with Senator DODD. I, too, have been concerned about the problem that we see as a mounting one. We ought not to be putting college students in debt, particularly at such an early stage of their life. But my concern is that this law has to be carefully crafted. I do not feel that it has been. My concern is that this has to be put together in such a way that we do not deny credit to students who might need it while they are away from home. But further, I don't want to stop or impede credit to non-college students under the age of 21.

We have not had hearings on this. And we have not attempted to curb the credit cards through any private methods. Senator DODD is on the Banking Committee. So am I. I would prefer to defer this, and hold hearings, and move legislation independently out of the Banking Committee, where it should begin, and then to the floor.

I think the Senator from Connecticut has certainly identified a real and continuing problem. But I have struggled with how to legally cut off credit to college students for some time. I have noticed card solicitations at college bookstores and the marketing efforts that have been put forth that are aimed solely at young people. But why do we tell someone in the U.S. Army, who is under the age of 21, whom we without any hesitation send into harm's way to be killed, or whatever, that they can't get a credit card? This will diminish the chances of getting one, very likely.

That is why I think we should take more time and care in crafting this proposal so that we do it right. It needs to be done, but it needs to be done right. What do you do with the people who lie on their application? These are some of the things that are going to be difficult to legislate unless we take time and do it right.

You have to remember that while there may be only really a few credit card brands, they are offered by literally thousands and tens of thousands of institutions. All of the burden of administering this requirement is going to be absorbed by them. Those costs are going to be passed along to you know who. And that is all of us who do business with banks or use credit cards.

Again I say, let's carefully consider this before we legislate. Let's bring it to the Banking Committee. Let's have hearings on it and at that point craft a bill that would serve the purposes and go in the direction that Senator DODD is trying to go. I would be happy in the subcommittee that I chair to hold hearings on it just as soon as possible. It really is a problem. But we need to take our time and correct it.

Thank you, Mr. President.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I yield 3 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the distinguished Senator from Connecticut.

I would like to ask several brief questions to clear up this debate.

It has been said on the floor of the Senate that because of the amendment of the Senator from Connecticut, that someone serving in the U.S. military under the age of 21 could not get a credit card. Is that true or false?

Mr. DODD. That is absolutely false. That person has independent economic means, being a paid member of the military.

Mr. DURBIN. It has also been said that someone with a job with low income under the age of 21 would be unable to get a credit card under the Dodd amendment. Is that true or false?

Mr. DODD. That is false. A person who is unemployed might have unemployment compensation and independent means, and would certainly qualify.

Mr. DURBIN. I thank the Senator from Connecticut, because I think there have been some things said on the floor which mischaracterize his amendment.

This debate has had a lot of reference to personal responsibility. We ought to keep a board up here to check off every time someone says ''personal responsibility.'' We are talking about bankruptcy, and I think people who go into bankruptcy court should be personally responsible. I agree. Most Democrats agree. Most Republicans agree. There are some people abusing the bankruptcy system. We ought to change it.

The purpose of this bill is to tighten it up so that the abusers cannot take

advantage of bankruptcy to the disadvantage of everybody else in America.

But in addition to personal responsibility, can't we discuss corporate responsibility here? Don't the credit card companies have some responsibility to make certain that they don't offer risky credit, luring children and people who are unwitting into credit situations, and then watching it topple over them? Those same credit card companies which come to us and say, once these people have fallen deep in debt, once they have all this credit card debt that they can't get out of, and go to bankruptcy court, be strict and tough with them—I agree with that, but shouldn't we also have a standard which says these companies should be responsible in dealing with American consumers?

Senator DODD offers an amendment which is timely. Listen to this. Bankruptcies among those under the age of 25 have doubled in the last 5 years. It is estimated that a college student in the first few months on campus will receive 50 solicitations for credit cards. A student without virtually any income is going to be that target customer. As Senator DODD has said over and over again, too many kids who are lured into easy credit before they have an income or the maturity to handle it end up deeply in debt, and many of them jeopardize their education as a result of it.

The Senator from Alabama said he wanted his children to have a credit card at college. I wanted mine to have one as well. He would have gladly signed for that. I would have as well. That is exactly what the Dodd amendment says. If a parent will put a signature on the line, the credit card is there for the college student.

But I salute the Senator from Connecticut. I support his amendment. I think we are talking about corporate responsibility and personal responsibility.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 1 minute.

Mr. DODD. Mr. President, I thank my colleague from Illinois.

Just to make the case once again, we have watched consumer debt double to $455 billion in the last couple of years. It has tripled and quadrupled. It seems to me that to listen to what university people are saying, we have more people dropping out of school—as the official at the University of Indiana said, ''We lose more students to credit card debt than academic failure''—we have some indication of what is going on here. To say between the ages of 18 and 21 just to get a parental signature, or an indication of independent economic means, as you would if you were not a student, is not asking too much. It seems to me that is the bare minimum standard of what we ought to be asking of the credit card companies. It is my understanding that most responsible credit card issuers already require them.

Is it asking too much that the credit card companies strive to meet their own best practices in order to do something to protect our children? If you are under 18, the law already protects you. It is that window between 18 and 21.

Mr. President, I hope that our colleagues will recognize that it is really not fair for middle-income families to get saddled with a $10,000 debt because of solicitations that were made to a student in school. This is a license for us to do something about it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I urge adoption of the amendment.

Mr. GRASSLEY. Mr. President, I move to table the Dodd amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Dodd amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Georgia [Mr. COVERDELL] is necessarily absent.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] is necessarily absent.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—58

Abraham	Gorton	McConnell
Allard	Gramm	Murkowski
Ashcroft	Grams	Nickles
Bennett	Grassley	Reid
Biden	Gregg	Robb
Bond	Hagel	Roberts
Brownback	Hatch	Roth
Burns	Helms	Santorum
Campbell	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Collins	Jeffords	Snowe
Craig	Johnson	Specter
DeWine	Kempthorne	Stevens
Domenici	Kohl	Thomas
Enzi	Kyl	Thompson
Faircloth	Lott	Thurmond
Feingold	Lugar	Warner
Frist	Mack	
Glenn	McCain	

NAYS—40

Akaka	Dorgan	Lieberman
Baucus	Durbin	Mikulski
Bingaman	Feinstein	Moseley-Braun
Boxer	Ford	Moynihan
Breaux	Graham	Murray
Bryan	Harkin	Reed
Bumpers	Inouye	Rockefeller
Byrd	Kennedy	Sarbanes
Cleland	Kerrey	Smith (OR)
Coats	Kerry	Torricelli
Conrad	Landrieu	Wellstone
D'Amato	Lautenberg	Wyden
Daschle	Leahy	
Dodd	Levin	

NOT VOTING—2

Coverdell	Hollings

The motion to lay on the table the amendment (No. 3598) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3597

The PRESIDING OFFICER. The Senate will now consider amendment No. 3597, the D'Amato amendment, with 2 minutes equally divided.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the next vote in this series be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

The Senate will come to order. The Senator from New York is recognized. The Senate will please come to order. The Senate will please come to order for 1 minute of debate on each side before we vote.

The Senator from New York.

Mr. D'AMATO. Mr. President, my amendment would stop one of the most predatory, outrageous practices that consumers throughout America are facing, double charging at ATMs. There are fewer opportunities to avoid that. Since the ban has been lifted, we have gone from 17 percent of the ATMs double charging to 79 percent in 2 years. There is no consumer choice. At the end of next year, it will be over 90 percent, and it will cost the average consumer $2.68 for that transaction.

For people who say, ''Oh, we'll lose the ATMs if we do not have these double charges,'' 74 percent of the ATMs that are in existence today existed prior to the double charges.

If you want to help the little guy, here is an opportunity. Vote for the ATM ban; vote for the consumer. Give that little guy a choice and give people an opportunity to vote. I am urging people to vote no against the motion to table.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. GRASSLEY. I yield back our time.

The PRESIDING OFFICER. The yeas and nays have been ordered on the motion to table the D'Amato amendment.

Mr. LOTT. Parliamentary inquiry.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I did want to move to table and ask for the yeas and nays. Have the yeas and nays been ordered?

The PRESIDING OFFICER. That motion has been made.

The question is on agreeing to the motion to lay on the table the D'Amato amendment, No. 3597. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Georgia (Mr. COVERDELL) is necessarily absent.

Mr. FORD. I announce that the Senator from South Carolina (Mr. HOLLINGS) is necessarily absent.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—72

Abraham	Faircloth	Lugar
Akaka	Ford	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Baucus	Graham	Nickles
Bennett	Gramm	Reed
Biden	Grams	Reid
Bond	Grassley	Robb
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Burns	Hatch	Roth
Byrd	Helms	Santorum
Campbell	Hutchinson	Sessions
Cleland	Hutchison	Shelby
Coats	Inhofe	Smith (NH)
Cochran	Inouye	Smith (OR)
Collins	Jeffords	Snowe
Conrad	Johnson	Specter
Craig	Kempthorne	Stevens
Daschle	Kerrey	Thomas
DeWine	Kyl	Thompson
Domenici	Landrieu	Thurmond
Dorgan	Leahy	Warner
Enzi	Lott	Wyden

NAYS—26

Bingaman	Feinstein	McCain
Boxer	Glenn	Mikulski
Bryan	Harkin	Moseley-Braun
Bumpers	Kennedy	Moynihan
Chafee	Kerry	Murray
D'Amato	Kohl	Sarbanes
Dodd	Lautenberg	Torricelli
Durbin	Levin	Wellstone
Feingold	Lieberman	

NOT VOTING—2

Coverdell	Hollings

The motion to lay on the table the amendment (No. 3597) was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent for 3 minutes to make some comments with regard to this vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, first let me thank my colleagues who have given me the opportunity to at least bring this to a vote. Needless to say, the great power and the great number of dollars involved were felt. It is a lot of money that a lot of little people are paying that they shouldn't be paying.

Indeed, some Members have indicated to me that notwithstanding their opposition to intruding generally into the private sector, they would reconsider their votes in the future if they continue to see the predatory price-gouging practices that are anticonsumer and monopolistic; if they continue to see not only the number of ATMs that are double charging continue, but lack of consumer choice; and escalating fees.

Indeed, the Senate majority leader told me, and he is on the floor now, that he has indicated to those in the banking community that they had better look carefully at what they are doing. If they continue to impose these fees on the little people, he may not be nearly as supportive.

This is a close issue as it relates to when should government become involved in the private sector. I believe that time has come.

Having said that, this is a battle, but it is not the end. I lost this battle, but I am prepared to continue this battle and win the war until and unless we see a rollback in what is taking place now—and that is taking advantage of the consumer, the little guy, the working families of America.

Again, I thank my colleagues who have yielded me this time to make this observation. We lost the battle, but not the war.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT REQUEST—S. 2279

Mr. LOTT. Mr. President, I had earlier made a unanimous consent request to bring up the FAA issue, now known as the Wendell Ford National Air Transportation System Improvement Act. This is a bill we really need to get done before we leave. If we don't get it cleared, cloture will take so much time, we may wind up not being able to complete this bill.

It is important for airports, air passengers, the airline industry, the entire country.

Again, I ask unanimous consent that it be in order for the majority leader, after consultation with the Democratic leader, proceed to the consideration of S. 2279, the National Air Transportation System Improvement Act. I further ask that during the pendency of S. 2279 only relevant amendments be in order to the bill.

Mr. DASCHLE. Mr. President, I object.

Let me explain, briefly. I share the majority leader's determination to complete work on this legislation. We need to get this bill done before the end of the session. The Senators from Maryland and at least the Democratic Senator from Virginia, as well as the Senators from Illinois, are still attempting to work through some problems relating to the legislation and their respective States. I am hopeful we can come to some successful conclusion in those discussions at an early date, but until that has been completely worked through, we will have to object.

I hope that we continue to put the pressure on those who are interested, as we are, in coming to closure on this, to get it done soon.

I yield the floor.

The PRESIDING OFFICER. The objection is heard.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, 3 days ago the distinguished majority leader asked unanimous consent, and it was objected to. I come to the floor, again, to say I am happy to work with any Senators. The Senator from Virginia, Senator WARNER, is now in agreement. I believe that the Senators from Illinois are, although unhappy, willing to let this bill move forward. If the Senators from Maryland have a problem, I am happy to consider their amendments in the normal legislative process.

Mr. President, let me point out something very important here. We are talking about aviation safety, security, capacity, and noise projects, and we are talking about billions of dollars' worth. I hope that we will be able to move forward on this bill very quickly. There are over $2 billion worth of projects that can be held in abeyance because of our failure to reauthorize the FAA. We are talking about safety, Mr. President, which is a very big burden for all of us to bear. So I want to tell my colleagues on the other side of the aisle—especially the Senators from Maryland—I am ready to sit down at any time and see if we can work out any differences that we have to their satisfaction so that we can get this very important reauthorization completed before the end of the fiscal year.

I ask unanimous consent that two letters regarding this legislation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES, AIRPORTS COUNCIL INTERNATIONAL,
Alexandria, VA, September 14, 1998.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We are writing you with an urgent request for assistance. Congress is scheduled to adjourn for the year in less than one month and the Senate has still not taken up pending ''must pass'' legislation to reauthorize programs of the FAA. The current authorization expires September 30. If Congress fails to reauthorize the Airport Improvement Program (AIP) prior to adjournment, the FAA will be unable to find critically needed safety, security, capacity or noise projects at airports in every state in the nation.

Please do what you can in your role as chairman of the authorizing committee to bring this bill to the Senate floor immediately so that a final version of the measure can be adopted and signed into law prior to adjournment. Without swift congressional action, critically needed federal funding for runways, taxiways, security and hundreds of other projects will stop after September 30.

Thank you for your immediate attention on this important matter.

Sincerely,

CHARLES BARCLAY,
President, AAAE.
DAVID Z. PLAVIN,
President, ACI–NA.

SEPTEMBER 11, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: We are writing with an urgent request. Congress is scheduled to adjourn for the year in less than one month and the Senate has still not taken up pending ''must pass'' legislation to reauthorize programs of the FAA. The current authorization expires September 30. If Congress fails