

could repeal the earnings test under Social Security. All of those things would cost less as a tax cut than the money we are talking about spending on an "emergency basis."

So I want to conclude by making the following points. No. 1, I intend to resist these emergency spending items. If somebody wants to sit down and come up with a real emergency, I am willing to look at it. But if we are talking about this kind of spending where we knew it was coming but decided to call it an emergency—and I now understand that the President is considering designating research and education spending as an emergency—if we are talking about this level of spending, I intend to resist, and we are going to have to have 60 votes in the Senate if this kind of spending is to occur.

Secondly, I have been among those who have publicly stated that we should set aside the budget surplus this year, not spend the money, not give it back in tax cuts, until we fix Social Security. But if the other side decides that we are now suddenly going to start spending massive amounts of money, I would much rather give it back to working Americans by cutting their taxes than to see the Federal Government spend it, although my first choice is to save the money for Social Security. I remind my colleagues that the tax burden on working families in America at the Federal, State, and local levels is at the highest level in American history.

So my two points are: No. 1, I intend to resist this effort to begin a massive spending spree, the likes of which we have not seen in a decade. No. 2, if this effort continues to have the government spend the surplus, the argument that we must wait to do tax cuts is over. If we are going to see one group in Congress try to spend the surplus, while asking those of us who believe it should be safe for Social Security but who also believe that giving it back to the taxpayer is a much higher and better use than seeing the Government spend it, then that argument is over.

So I wanted to alert my colleagues to this problem. I hope that we can serve the public better than we would be if we simply ignite a new spending spree, because for the first time since 1969 we have a surplus.

I think that is wrongheaded policy.

Let me say also to the threats that the administration might veto appropriations bills if we don't spend enough money that I think the Congress should stay in session, pass appropriations bills at reasonable and responsible levels, and, if the President wants to veto them, let him veto them. And then we can be here and we can pass them again; then pass them again, pass them again. I believe at some point that the public would awaken to the fact that this is a debate about how much money is being spent, and that what we are seeing here is a very subtle blackmail where the administration says, "If you do not spend more money,

I am going to veto bills, and I am going to shut down the Government."

I believe, if we will stand our ground on fiscal principle, if we will save the surplus for Social Security, that we will serve the public interest well. But, if the money is going to be spent—if that is the alternative—then I would much rather move ahead with a major tax cut and give the money back to the American worker than to see the Government spend it.

I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONSUMER BANKRUPTCY REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. GRASSLEY. Mr. President, for our majority leader, I make this request: I ask unanimous consent that pursuant to the consent agreement of September 11, at 10:30 a.m. on Tuesday, September 22, the Senate resume S. 1301, and Senator KENNEDY be immediately recognized to offer his amendment relative to the minimum wage. I further ask that at 2:15 on Tuesday there be 5 minutes equally divided, to be followed by the vote on the motion to table that amendment.

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

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. REED. Mr. President, I also ask unanimous consent to lay aside the pending managers' amendment.

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

AMENDMENT NO. 3596 TO AMENDMENT NO. 3559

(Purpose: To prohibit creditors from terminating or refusing to renew an extension of credit because the consumer did not incur finance charges)

Mr. REED. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 3596 to amendment No. 3559.

Mr. REED. Mr. President, I ask unanimous consent 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 in title IV, insert the following:

SEC. 4 . PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

Section 106 of the Truth in Lending Act (15 U.S.C. 1605) is amended by adding at the end the following:

"(g) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor may not, solely because a consumer has not incurred finance charges in connection with an extension of credit—

"(1) refuse to renew or continue to offer the extension of credit to that consumer; or
 "(2) charge a fee to that consumer in lieu of a finance charge."

Mr. REED. Mr. President, my amendment would prohibit credit card companies from terminating a customer's account or imposing a penalty solely because the customer pays his or her bill on time and in full each month. It seems amazing but there are actually some companies out there that will terminate credit because the borrower, the debtor, pays the full amount each and every month on time.

This amendment is narrowly tailored and would not otherwise affect the ability of the credit card company to terminate accounts or charge any fees or do anything with respect to penalties, but it would restrict and, indeed, eliminate this practice of terminating the best creditors that they have simply because they are not making any money on finance charges.

I am offering this amendment in response to this very troubling practice which finds many credit card companies discriminating against the most responsible borrowers, those who pay their balances on time each and every month. Specifically, several companies have started to terminate a customer's card or impose a penalty if the customer pays his or her credit card bill in full each month.

For example, in my home State of Rhode Island, many consumers with a credit card issued by a popular national discount store were alarmed to receive letters which stated:

Our records indicate this account has had no finance charges assessed in the last 12 months. Unfortunately, the expense incurred by our company to maintain and service your account has become prohibitive, and as a result, in accordance with the terms of your cardholder agreement, we are not re-issuing your credit card.

One couple who received this letter has been married for 49 years and had never been late on any mortgage payment or denied any loan or been late in any type of credit arrangement that they had. Yet, with this note, the company was informing them that they were effectively being denied credit solely because they were responsible borrowers.

Now, the message from credit card companies in this case is if you are too good a risk we won't give you any credit. That is illogical and, I think, should not be the practice of these companies.

In fact, this practice is contrary to the goals of S. 1301, which is to promote responsible borrowing practices and reward those who are responsible in their borrowing practices. By penalizing borrowers who pay off their bills each month, it seems that some credit card companies are, in fact, advocating the type of behavior which S. 1301 is designed to discourage.

I am not moved by the claims of these companies that say they need to cancel accounts which do not incur financial charges because the cost of servicing these accounts is prohibitive. Industry data suggests it costs issuers about \$25 annually to service an account. But issuers are able to offset this cost through an interchange fee of approximately 2 percent charged to merchants on each transaction. Each year, on average, \$3,000 is charged to a credit card. This 2-percent interchange fee on these charges equals about \$60 which would seem to more than cover the cost of these accounts. Moreover, with Americans holding over \$450 billion in consumer debt and with an average interest rate on credit card balances at 17.7 percent, the overall profitability of credit card lending is obvious and apparent.

This amendment is a narrowly crafted measure which is designed to prohibit credit card companies from discriminating against the most responsible borrowers. For this reason, the amendment would clearly advance the goals of S. 1301 to promote more responsible credit card practices.

I see no reason why my colleagues would oppose it. I therefore ask my colleagues to support this amendment. At the appropriate time I will ask for the yeas and nays.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Iowa is recognized.

Mr. GRASSLEY. First of all, because we have about 12 amendments pending on this bill, I want to thank the Senator from Rhode Island for coming over here and helping to expedite the process of the Senate on a very important bill. I thank Senator REED for coming over and doing that.

Having said that, knowing the personality of the Senator from Rhode Island, that he is very sincere about his position and very sincere in determining that this is a problem to needs to be dealt with, I suggest there are two issues relating to this amendment. One would be the immediate issue of whether or not it is needed; second, the extent to which this really falls in the jurisdiction of the Senate Banking Committee.

I don't find fault with the Senator from Rhode Island offering this amendment to my bill, but a reason for my opposition is that I do not like to usurp the authority of other committees.

I think experience has shown that price controls, as indicated in this amendment, are counterproductive. In the end they are very harmful to the

people they are trying to help, particularly the consumer, and in addition to that, somewhat harmful to the general economy.

I feel this amendment should be opposed. This amendment has the destabilizing effect of imposing price controls on credit card lenders by prohibiting the imposition of a fee or canceling the account of an account holder because the account has not incurred financial charges.

The credit card industry is extraordinarily competitive. People might not realize it—on the other hand, they might realize it because they get so many of these solicitations—but in the banking industry alone, there are 6,000 credit card issuers. They are all in competition, competing with each other for new credit card holders. Everybody here on the Senate floor right now is in somebody's computer and in a few days they will get some sort of a solicitation. That is how competitive it is. Whether that is right or wrong is another thing, but the competitive environment makes that determination.

This intense competition provides consumers with enormous benefits. For instance, it has resulted in a decline of the average credit card interest rate in the past several years. Just as important, the competition results in industry choice for the consumer. As I said, consumers can choose from literally thousands of different cards, each with a different array of pricing and benefit features.

As a result, the extraordinarily competitive environment in which credit card issuers operate, consumer credit actually dictates credit card prices much more efficiently than we can do through almost any Federal law. Any lender who offers undesirable pricing features will swiftly fall behind the competition because the consumers can and will choose other products. By contrast, this amendment would harm consumers by restricting consumer choice.

In addition, we have a record going back to 1991 when another Senator—still a Member of this body—tried to impose price controls on lenders and it precipitated a severely negative impact on the stock market. For example, in 1991, when the Senate opposed price controls on credit card lenders in the form of an interest rate ceiling, the stock market reacted, dropping 120 points in a single day. Clearly, in this time of already volatile market activity, we don't want to repeat things of that nature. I am not suggesting that would be what would happen in the case of the amendment that is before the Senate, but, obviously, we should be very cautious.

Now, probably a more important point for Members to consider in supporting or not supporting this amendment would be, as I said, whether it is in the jurisdiction of the Senate Banking Committee. We have the Senator from North Carolina, Mr. FAIRCLOTH, chairing the Subcommittee on Finan-

cial Institutions of the Banking Committee. He has indicated to me that he will hold hearings on credit card solicitation practices and also on lending practices.

I know many Members feel the credit card companies have been sloppy and overly aggressive in the way they offer credit. I say there is substance to that argument. That is why I have appreciated my comanager of this bill, Senator DURBIN, bringing this to our attention as part of this legislation. I think it has been amply discussed, and I share some of those concerns as well. I do think it is more appropriate for the committee of jurisdiction to do that. I am certainly not here to tell Members that credit card companies have been totally responsible in the way that they offer credit. But the fact is that these are issues which need to be explored by the authorizing standing committee and its subcommittee.

The amendment of the Senator from Rhode Island is a Banking Committee issue. We happen to have before the Senate a bankruptcy bill which came out of the Judiciary Committee where we don't have the expertise that we ought to have on this issue. I would like to follow the regular order of the Senate and let the subcommittee with real expertise examine this.

I have a letter from Senator FAIRCLOTH that I wish the Senator from Rhode Island would consider. It is addressed to me.

It is my understanding that a number of amendments relating to credit cards will be offered to S. 1301. Most, if not all, of these amendments will relate to matters in the jurisdiction of the Banking Committee. I Chair the Financial Institutions Subcommittee of the Banking Committee.

I share the concerns that many have regarding multiple credit card solicitations and solicitations to minors. In fact earlier this year, my Subcommittee held a hearing on bankruptcy issues, with representatives of the credit card industry testifying. I have requested and received GAO reports on such practices as high loan to value loans and the sending of "live" loan checks.

As for many of the proposed amendments relating, however, none have been passed by the Committee. In fact, none have been considered by the Committee. Further, none of the proponents of the amendments have requested hearings on any of their legislative proposals.

During consideration of the bankruptcy bill, please know that I would be more than willing to hold a hearing or hearings on any of these proposals in my Subcommittee where they rightfully should be considered under regular order.

Sincerely,

LAUCH FAIRCLOTH,
Chairman,

Subcommittee on Financial Institutions.

I give that to my colleagues for consideration. Again, I thank the Senator from Rhode Island for coming.

I yield the floor.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I thank the Senator from Iowa for his comments and for his leadership, along with our

colleague from Illinois, Senator DURBIN. I have a few comments in response to his very thoughtful commentary.

First, the jurisdiction of the committee when it gets to the floor, it has been my limited experience, is somewhat fluid. In fact, in this bill we are amending the Truth in Lending Act, which has ramifications in both the Judiciary Committee and the Banking Committee. I think, to be very scrupulous about jurisdictional responsibilities here, we missed the opportunity to do something which most of our colleagues, I hope, would recognize is an appropriate thing to do—preventing the termination of credit to people who simply pay their bills on time.

The second aspect of this debate, which I think is appropriate to have in this bill, is that the driving force for this legislation comes very powerfully from the credit card industry. They are concerned that many individual consumers seek bankruptcy because of their huge credit card debts, and they feel that they are currently disadvantaged with the present system. So, again, I don't think it is inappropriate as we look at this bankruptcy system and, in many respects, test the credit card industry and look at some of their practices. This practice is particularly disturbing—again, that somebody's credit would be terminated simply because they paid on time.

Another aspect that the Senator from Iowa mentioned was the suggestion that this is, in some way, price controls. I think that is a very, very long stretch—to look at this amendment which says you can't terminate an individual because they pay on time—that is a far cry from imposing limits on how much could be charged in terms of fees, penalties; and, clearly, I make no attempt to do that. I would never suggest that we do that in this amendment. I point out that in fact there are existing situations, in State law certainly, usury statutes, which do impose fees and caps on what a credit card company can charge. That is not the intent nor the specificity of this amendment.

This simply says that it should not be permissible for a company to terminate an individual who has paid promptly, solely for the fact that that individual has paid promptly. If the individual is in arrears, if the individual has done something else to violate the agreement, then that is grounds, but not prompt payment; that should not be grounds.

Ultimately, let me get back to the initial point I made. At the heart of this legislation—and, again, the Senator from Iowa and his colleagues have done much to make sure this was at the core—was to try to reestablish a sense of responsibility among borrowers that we will not tolerate people who game the system, who use bankruptcy as a shield for their irresponsibility. To me, it is extremely ironic that we would be talking about a situation here where I am attempting to recognize and pro-

tect the continued extension of credit to the most responsible borrowers we have in the country, the ones who pay on time every month and don't use this system to be irresponsible.

So I hope my colleagues can recognize the merits within this particular amendment and support it.

On a final point, I note that today is the birthday of the Senator from Iowa. I thank you for working overtime on your birthday on this measure, Senator.

I yield the floor.

Mr. GRASSLEY. I thank the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REED. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent that at 12 noon today the Senate proceed to a vote on or in relation to the Reed amendment number 3596. I further ask that at 11:55 there be 5 minutes for debate equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I rise in support of the amendment offered by the Senator from Rhode Island.

Recently, some credit card issuers have started to discriminate against people who pay off their account balances each month, and, therefore, don't incur finance charges for the credit card purchases. These issuers charge such customers a monthly fee, or they actually terminate the customer's account.

The Reed amendment would prohibit credit card issuers from charging a fee, or terminating an account based solely on the customer's failure to go into debt to incur finance charges.

Let me tell you why I think this is a good idea.

Industry experts have concluded that many issuers of these cards have been actively discouraging consumers from paying off balances by lowering their monthly minimum payments, and, in some cases, requiring as little as 2 percent of the balance on their credit card debt each month. Think of how long it would take to pay off your credit card under such circumstances. At such a

rate, it could take 34 years, in fact, to pay off a \$2,500 credit card balance, with payments totalling 300 percent of the original principal.

In fact, about 40 percent of American credit card holders pay their balances in full each month, thus incurring no interest charges. Such "convenience users" are considered freeloaders by these credit card companies—even deadbeats. They want people to go into debt. They want us to pay finance charges as much as possible every single month. Some credit card companies charge annual fees and other techniques to discourage this type of credit card use.

I think the amendment offered by the Senator from Rhode Island is a good one. I will support it on the floor. I believe that the credit card companies should understand that if some people are unable to make their monthly payments, and thus, incur additional expenses, so, too, there are people who really do pay off their debts as they are incurred, and in so doing these people should not be penalized.

I yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The distinguished Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

211TH ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION

Mr. BYRD. Mr. President, as I look about at my distinguished colleagues seated in the august Senate chamber, I find myself mentally transported to another gathering of distinguished leaders, in another elegant chamber, that occurred exactly two hundred and eleven years ago today.

The date was Monday, September 17; the setting, the Philadelphia State House. It had been a long, hot summer, and only 38 of the 55 delegates attending the Constitutional Convention were still in attendance. One can imagine the commingled sense of pride, nervous excitement, and exhaustion that filled these men as they filed into the State House chamber and took their seats. For awaiting them that day was a task that they must have eagerly anticipated for several months—and that many of them feared might never arrive. It was to be the fruition of their diligent, patient, frustrating summer of debate, discussion, and dispute. Finally, they would put their signatures to the document, freshly copied on parchment in neat script, that they