

Senate floor. That is truly unfortunate. Let me address two of them. No. 1, as a Senator serving in this body, she visited Nigeria and a leader there of whom the United States did not approve.

I will have to tell you I did not approve of that leader either, but no one has ever questioned the right of any Senator or any Member of the House to decide to take foreign travel and visit a foreign leader without the approval of the State Department. I think, frankly, that is all well and good. When the chairman of the Foreign Affairs Committee, Senator HELMS, chose to visit General Pinochet in Chile, that was his right. Many people in the United States might question it, but I do not question his decision to do that. That is something for him to defend to the voters of North Carolina.

When my Governor in the State of Illinois decided 2 weeks ago to visit with the dictator leader in Cuba, Fidel Castro, again it was his right. In fact, I supported his visit. I thought it was important.

So to bring up this red herring of a visit to Nigeria while she served in the Senate is to hold Carol Moseley-Braun to a different standard than we hold our own colleagues and other leaders across the Nation. I don't think that is fair.

Second, on the talk about campaign finances and whether she misspent them, the record of the committee tells the story. When an auditor came from the FEC and looked at detailed records from the Carol Moseley-Braun campaign in 1992 and went through the \$8 million in expenditures in that campaign, they were able to identify \$311 unaccounted for.

Mr. President, I make a great effort to try to have a full accounting, as required by law. I am sure every Senator does. But \$311 out of \$8 million? To make of that some sort of a disgrace or scandal is to exaggerate it beyond recognition. Those are the charges flung again at Senator Carol Moseley-Braun on the Senate floor.

That is a sad occurrence and one which I wish had not occurred. Frankly, I hope the Members of the Senate, before we adjourn today, have a chance to vote on giving our colleague a chance to serve because we are not only sending an able representative to represent the United States with one of our great allies, New Zealand, we are sending to New Zealand evidence the American dream is still alive because Carol Moseley-Braun—and I will readily concede she is not only my former colleague but my friend—and her public life are a testament to what America stands for. Born in a segregated hospital facility in Chicago, her mother, a medical technician in the same place, her father a Chicago policeman, she worked her way through college to not only earn a degree but earn a law

degree from the University of Chicago, to serve for 5 years as an assistant U.S. attorney and prosecutor, to become the first African American woman to ever serve as a member of the leadership in the Illinois General Assembly, to become the first African American woman ever elected countywide in Cook County, and the first African American woman in this century to be elected to the Senate.

Time and time again, every step of her life has crushed down another barrier so that those who follow her will have a better opportunity.

Now she joins some four other African American women who serve as our Ambassadors should the Senate decide to give her that chance. As she journeys to New Zealand—and I hope she will soon—she will bring with her not only a wealth of public service but a story about how the American dream can be realized if you believe in yourself and if you believe that equality is more than just a word—it is a principle which guides this great country.

I stand in strong support of Carol Moseley-Braun. I believe she will be an excellent Ambassador, and I believe the vote that comes out of this Chamber will be strong and bipartisan and put to rest, once and for all, many of the charges and rumors which have been swirling around her nomination over the past several weeks.

Mr. President, I yield the floor to my colleague, the Senator from New York.

Mr. SCHUMER. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New York.

BANKRUPTCY REFORM ACT— Continued

AMENDMENT NO. 2761

(Purpose: To improve disclosure of the annual percentage rate for purchases applicable to credit card accounts)

Mr. SCHUMER. Mr. President, as per the agreement, I call up amendment No. 2761, to be debated for 15 minutes and then laid aside.

I ask unanimous consent that Mr. SANTORUM be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative assistant read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mr. SANTORUM, proposes an amendment numbered 2761.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the 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. . TRUTH IN LENDING DISCLOSURES.

Section 122(c) of the Truth in Lending Act (15 U.S.C. 1632(c)) is amended—

(1) in paragraph (1), by striking the current text and inserting the following:

“(1) IN GENERAL.—The information described in paragraphs (1), (3)(B)(i)(I), (4)(A), and (4)(C)(i)(I) of section 1637(c) of this title and the long-term annual percentage rate for purchases shall—

“(A) subject to paragraphs (2) and (3) of this subsection, be disclosed in the form and manner which the Board shall prescribe by regulations; and

“(B) be placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper with respect to which such disclosure is required.”

For purposes of this subsection, the term “long-term annual percentage rate for purchases” means the highest nondefault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title), except that in the case of a credit card account to which an introductory or temporary discounted rate applies, the term “long-term annual percentage rate for purchases” means the highest nondefault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised that will apply after the expiration of the introductory or temporary discounted rate, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title.)”

(2) in paragraph (2), by striking the current text and inserting the following:

“(2) TABULAR FORMATS FOR CREDIT CARD DISCLOSURES.—

“(A) The long-term annual percentage rate for purchases shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title in 24-point or larger type and in the form of a table which—

“(i) shall contain a clear and concise heading set forth in the same type size as the long-term annual percentage rate for purchases;

“(ii) shall state the long-term annual percentage rate for purchases clearly and concisely;

“(iii) where the long-term annual percentage rate for purchases is based on a variable rate, shall use the term ‘currently’ to describe the long-term annual percentage rate for purchases;

“(iv) where the long-term annual percentage rate for purchases is not the only annual percentage rate applicable to the credit card account offered, solicited or advertised, shall include an asterisk placed immediately following the long-term annual percentage rate for purchases; and

“(v) shall contain no other item of information.

“(B) The information described in paragraphs (1)(A)(ii), 1(A)(iii), 1(A)(iv), 1(B) and (3)(B)(i)(I) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraph (1) of section 1637(c) of this title or a written application or solicitation as large as or larger than 8.5 inches in width and 11 inches in length described in paragraph (3)(B) of section 1637(c) of this title in 12-point type and in the form of a table which—

“(i) shall appear separately from and immediately beneath the table described in subparagraph (A) of this paragraph;

“(ii) shall contain clear and concise headings set forth in 12-point type;

“(iii) shall provide a clear and concise form for stating each item of information required to be disclosed under each such heading; and

“(iv) may list the items required to be included in this table in a different order than the order set forth in paragraph (1) of section 1637 of this title, subject to the approval of the Board.”

“(C) The information described in paragraphs (1)(A)(ii), (1)(A)(iii), (1)(A)(iv), (1)(B) and (3)(B)(i)(I) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation smaller than 8.5 inches in width and 11 inches in length described in paragraph (3)(B) of section 1637(c) of this title in 12-point type and shall—

“(i) be set forth separately from and immediately beneath the table described in subparagraph (A) of this paragraph; and

“(ii) not be disclosed in the form of a table.

“(D) Notwithstanding the inclusion of any of the information described in paragraph (1)(A)(i) of section 1637(c) of this title in the table described in subparagraph (A) of this paragraph, the information described in paragraph (1)(A)(i) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title and shall—

“(i) be set forth in 12-point boldface type;

“(ii) be set forth separately from and immediately beneath the table described in subparagraph (B) of this paragraph or the information described in subparagraph (C) of this paragraph, whichever is applicable;

“(iii) not be disclosed in the form of a table; and

“(iv) where the long-term annual percentage rate for purchases is not the only annual percentage rate applicable to the credit card account offered, solicited or advertised, be preceded by an asterisk set forth in 12-point boldface type.”

(3) by adding at the end the following:

“(3) TABULAR FORMAT FOR CHARGE CARD DISCLOSURES.—

“(A) In the regulations prescribed under paragraph (1)(A) of this subsection, the Board shall require that the disclosure of the information described in paragraphs (4)(A) and (4)(C)(i)(I) of section 1637(c) of this title shall, to the extent the Board determines to be practicable and appropriate, be in the form of a table which—

“(i) contains clear and concise headings for each item of such information; and

“(ii) provides a clear and concise form for stating each item of information required to be disclosed under each such heading.”

“(B) In prescribing the form of the table under subparagraph (A) of this paragraph, the Board may—

“(i) list the items required to be included in the table in a different order than the order set forth in paragraph (4)(A) of section 1637(c) of this title; and

“(ii) employ terminology which is different than the terminology which is employed in section 1637(c) of this title if such terminology conveys substantially the same meaning.”

Mr. GRASSLEY. Mr. President, will the Senator yield for a question?

Mr. SCHUMER. I yield for a question.

Mr. GRASSLEY. The Senator's 15 minutes are coming within the framework of our voting at 5 o'clock.

Mr. SCHUMER. That is correct.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from Iowa and the Senator from Illinois for their courtesy and the Senator from Nevada for his diligent work in seeing we all get some time.

I am offering an amendment, along with the Senator from Pennsylvania, Mr. SANTORUM, to do something very basic to the bankruptcy bill, and that is to make credit card disclosure easier to find, easier to read, and easier to understand. I offer this amendment to achieve a goal I share with the sponsors of this bill—seeing fewer American consumers declare bankruptcy.

I believe, however, that real bankruptcy reform must address one of the root causes of consumer indebtedness, and that is, abusive consumer credit industry practices. Having saturated the middle market, credit card companies, of course, search ever harder for new users. Their search for new customers leads inevitably to those who have the least ability to repay and are most likely to wind up mired in debt.

The Federal Reserve reports that credit card solicitations skyrocketed to a shocking \$3.5 billion in 1998, a 15-percent increase from the previous year. That represents an average of 13 solicitations per year—more than one a month for every man, woman, and child in the United States. That is 12 a year for every man, woman, and child in the United States.

To reach these new customers, the credit card companies are in a race to the bottom oftentimes to come up with misleading marketing gimmicks and hidden fees.

The whole purpose of this bill is to say that those who get deeply into debt should have to repay their debts, even if they are poor. I understand that. I do not agree with certain provisions of it, but I understand it. We can all agree that we ought to have full and broad disclosure before someone signs up for a credit card so they do not get mired in that debt. That is not a Democratic or Republican principle, it is an Adam Smith free market principle: full information.

I am hopeful this bipartisan Schumer-Santorum amendment will meet the approval of this body and improve the bill.

Let me show my colleagues what is happening. Credit card accounts have become more complicated than ever. Look at this credit card solicitation. It is blown up significantly from its actual size. Count the number of rates applicable to the account. There is a teaser rate, 3.9 percent on introductory purchases and balance transfers. That is the only thing that jumps out at you. An unknowing consumer, someone not really trained in legalese, would think that is the annual rate, but it is not. Here are the other rates mired in

this very complicated language: a 9.9 percent long-term rate on purchases and balance transfers; 19.99 percent on cash advances; 9.99 percent rate, 19 and 22 percent penalty rates on balances in the long run.

My colleagues, that is not disclosure; that is an advance math problem on a college entrance exam. I have had a deep and abiding interest in credit card disclosure.

In 1988, as a House Member, I authored the Fair Credit and Charge Card Disclosure Act. The act required that certain information about a credit card account be disclosed: the annual percentage rate, the annual fee, the minimum finance charge, the method of computing the balance for purchases.

The act required that this amendment be disclosed in a table, the so-called Schumer box. By putting the information in the table and mandating the table be prominently disclosed, the hope was consumers would be able to understand what the costs of credit truly were. But instead of clarity, they got obfuscation. Because of how the Federal Reserve has interpreted the table, disclosure provisions to the Fair Credit and Charge Card Disclosure Act, the result has not been disclosure, but a hide-the-rate shell game.

Again look at this chart. The only number that stands out is 3.9 percent, and on the solicitation in big white letters on the front is 3.9 percent. If you were looking at this, you would think you are getting a 3.9-percent credit card; 3.9 is the only number in big letters. If you read all the little fine print on the inside, you will see the rate is 10 percent, 19 percent, even 22 percent.

We must correct this. We have seen the disclosure box can be stashed away in places far from prominent—the back page or accompanying scrap of paper. We see the disclosure box can appear in font sizes so small it is virtually unreadable. The disclosure box that appears on these is blown up significantly. In the actual solicitation, the letters are so small that even with my 48-year-old eyes, and getting older every minute, I cannot read them.

Finally, we have seen the box disclosure rate of information has turned out to be a mess. The so-called Schumer box, of which I was proud when it first passed, has not helped the consumer as much as intended. The amendment that Senator SANTORUM and I are offering will restructure the existing disclosure box in the following way:

First, it will create a large, readable, 24-point font table solely for the long-term annual percentage rate for purchases. This is the old card, where all you see is the introductory rate in big letters. This is the new rate, and it is easily seen, 9.99 percent, which would be the annual rate. If there is a teaser rate, a so-called introductory offer rate that is very low, that could be on the

credit card, but you do not need a college education or calculus to see the annual rate. It is very important.

Second, beneath the table disclosing the long-term annual percentage rate for purchases, it would mandate another table in standard 12-point font that discloses such items as the grace period for repayment, annual fees, minimum finance charges, transaction fees, and other items that are not required to appear in any disclosure box under current law—cash advance fees, late fees, and over-the-credit limit fees.

Finally, beneath this second table there would be full disclosure on all rates applicable to the credit card account. The poster shows the difference. This one looks as if you have a 3.9-percent rate; this one, the annual rate. Again, we are not limiting the consumer. We are simply providing information. This is good old Adam Smith American competition, and companies will compete for people based on who has the best rates.

It is fair to say consumers will be better off under my amendment, in terms of understanding the true costs of credit.

Senator SANTORUM and I believe that disclosure is the way to go, not putting a cap on, not putting limits on, but simply disclosure—but real disclosure—so that people could understand this.

It will fit on an 8½ by 11 sheet. We do not want the credit card companies to be able to say that it is difficult to put this together. All this information, including the large “9.9 percent,” is on an easily understandable sheet.

It is a shame we have to resort to putting font sizes into legislation, but if you look at the old “Schumer box,” with all the legalese, you will know that we need it.

Armed with better information, consumers will avoid some of the financial missteps that can send them into bankruptcy. That is a goal we all share.

So I urge my colleagues to support this amendment proposed by the Senator from Pennsylvania, Mr. SANTORUM, and myself. I urge that we could come together, in a bipartisan way, on an amendment that makes good sense, that improves the legislation. And then if someone falls into bankruptcy—which we hope does not happen—at the very least it would mean they knew what they were getting into.

Mr. President, how much time do I have left on the 15 minutes that have been yielded to me?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. SCHUMER. Six minutes.

Mr. President, I reserve that 6 minutes to wait for the Senator from Pennsylvania to come speak and for me to conclude.

Thank you, Mr. President.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I understand that the Senator from Illinois has yielded 4 minutes to me.

AMENDMENT NO. 2754

Mr. KENNEDY. Mr. President, I add my support for the amendment that has been offered by the Senator from Connecticut, Mr. DODD, to address the explosion of credit card debt because students on college campuses are offered credit cards. The amendment, as has been outlined, prohibits credit card companies from giving an individual under the age of 21 a credit card unless the young person has income sufficient to repay the debt or a parent or a guardian, or other family member over the age of 21, to share the liability for the credit card.

The point has been made, but I think it needs to be underlined, that when you get right behind this whole issue, what is happening is that the credit card companies are making these credit cards so available to young people who are attending college that the credit cards are effectively irresistible. The amount of debt that is being run up by these students is escalating into significant figures. What inevitably happens is that the parents are required, by one reason or another, to assume the debt obligation. That is the background, really, on why these efforts are being made by the credit card companies.

What isn't so evident is the kind of turmoil, anxiety, and depression that surrounds this whole atmosphere of student debt. What we found, in the course of the hearings on the Judiciary Committee, in a number of the different presentations that were made while considering the bankruptcy legislation, is that it isn't only the financial obligations that were assumed, but that many of the young people, who had stellar academic records, who were outstanding students in all forms of behavior, who were actually seduced by these credit card obligations and responsibilities, when they found they were unable to free themselves from these kinds of obligations, went into severe depression and into adverse behavior, where the students had tensions in their relationships with their parents, assuming an entirely different chapter in their development. And this is something that is happening with increasing frequency across this country.

The kind of recommendations that the Senator from Connecticut has outlined in the amendment is a very modest and reasonable way of addressing the excesses of this particular phenomenon taking place. This is the place to be able to do it.

I welcome the chance to join with Senator DODD in urging that this particular amendment be adopted. It makes a great deal of sense in terms of the young students in this country. It

makes a great deal of sense in terms of their parents, most of whom are hard working, decent parents who get caught up in these obligations, assuming the debts of their children. It puts an extraordinary burden on them as well.

This is a winner for the students and for their parents and for more sensible and responsible bankruptcy legislation.

I reserve the remainder of the time.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENTS NOS. 2659 AND 2661, EN BLOC

Mr. DURBIN. Mr. President, I ask unanimous consent to call up amendment No. 2659, regarding credit counseling, and amendment No. 2661, regarding prescreening for debtors between 100 and 150 percent of median income, and to immediately set them aside.

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

The clerk will report.

The legislative assistant read as follows:

The Senator from Illinois [Mr. DURBIN] proposes amendments numbered 2659 and 2661, en bloc.

The amendments are as follows:

AMENDMENT NO. 2659

(Purpose: To modify certain provisions relating to pre-bankruptcy financial counseling)

On page 18, line 5 insert “(including a briefing conducted by telephone or on the Internet)” after “briefing”.

On page 19, line 15, strike “petition” and insert “petition without court approval.”

AMENDMENT NO. 2661

(Purpose: To establish parameters for presuming that the filing of a case under chapter 7 of title 11, United States Code, does not constitute an abuse of that chapter)

On page 7, between line 14 and 15, insert the following:

“unless the conditions described in clause (iA) apply with respect to the debtor.

“(iA) the product of the debtor's current monthly income multiplied by 12—

“(I)(aa) exceeds 100 percent, but does not exceed 150 percent of the national or applicable State median household income reported for a household of equal size, whichever is greater; or

“(bb) in the case of a household of 1 person, exceeds 100 percent but does not exceed 150 percent of the national or applicable State median household income reported for 1 earner, whichever is greater; and

“(II) the product of the debtor's current monthly income (reduced by the amounts determined under clause (ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service and clauses (iii) and (iv) multiplied by 60 is less than the greater of—

“(aa) 25 percent of the debtor's nonpriority unsecured claims in the case; or

“(bb) \$15,000.

The PRESIDING OFFICER. Without objection, the amendments are set aside.

Mr. DURBIN. How much time is remaining on the debate?

The PRESIDING OFFICER. Eleven minutes 30 seconds for that side; 11 minutes for Senator GRASSLEY.

AMENDMENT NO. 2521

Mr. DURBIN. Shortly the Members of the Senate will have a chance to vote on an amendment to which I hope they will give consideration. It is an amendment which addresses a segment of the credit industry which represents the bottom feeders. These are the people who prey on the vulnerable in society. These are the people who try to ensnare vulnerable, frail, elderly, and sick people into literally signing over the only thing they own on Earth—their homes.

You have seen the cases. You have read about them in the papers and seen the exposes on television. They find a widow living alone in her home. They come in and want to sell her some siding or a new roof or new furnace. The next thing you know, she has a second mortgage on her home. The terms of the mortgage are outrageous. She finds herself losing the only thing she has left on Earth—her home. These are so-called “equity predators.”

I salute the Senator from Iowa, Mr. GRASSLEY, who is the manager of this bill on the Republican side, because he had a hearing in March of 1998 of the Special Committee on Aging of the Senate that was dedicated exclusively to this outrage in the credit industry, that these people would come in and prey on so many vulnerable people.

Let me quote Senator GRASSLEY. I do not know if I have his permission, but I did give him notice that I would read this from the hearing. He said:

Before we begin, I want to quote a victim—a quote that in my mind sums up what we are all talking about here today. She said the following: “They did what a man with a gun in a dark alley could not do. They stole my house.”

That is what is happening, time and again, when these unscrupulous creditors and lenders prey on the elderly and people who are less educated and end up taking something away from them that they have saved for their entire lives.

What does my amendment do? My amendment says that if this plays out, if they end up ensnaring some poor person into their trap, so that they stand to lose their home, and ultimately that person has to go bankrupt because of this unscrupulous lender, when they go to bankruptcy court, that same equity creditor cannot take away their home. If that person did not follow the law that requires full disclosure and fair treatment of people who are loaned money, they cannot come to bankruptcy court and end up with the deed to the home of an elderly widow. I think that is simple justice. It was a question before this Senate today as to whether or not, when we talk about abuses by those filing for bankruptcy, we will be equally outraged by abuses

by creditors such as these predatory lenders who use our legal system and our bankruptcy court to literally push through processes that take away from people things they have saved for their entire life. They are serial credit predators. They prey on the elderly, the less educated, the frail, and the vulnerable. They are the bottom feeders in the credit industry. My amendment will give my colleagues in the Senate a chance to tell them once and for all, stop this devious conspiracy to go after the elderly in America.

How many people are affected by this? So many that in the State of California they have set up a special fraud unit to go after these predatory lenders.

I am sad to report that as I stand here today, many reputable lenders are opposing my amendment. What does that say about them? If they are opposing my amendment to go after the bad guys, how does that reflect on the good guys in this business? I don't think it tells a very good story.

The groups supporting my amendment include the Consumer Federation of America, the Consumers Union, National Consumer Law Center, the U.S. Public Interest Research Group, the UAW, and others who have decided, as I have, that we should put an end to this once and for all, as is stated in their letter in support of my amendment: As consumers who receive these loans are commonly forced into bankruptcy, it is essential to create a bankruptcy remedy that protects debtors and other honest creditors from the predators who seek to enforce these loans.

Let me give a couple examples of these loans. Lillie Coleman is a resident of New City in Illinois, 68 years old, living on a pension. In comes a person who says: I'll tell you what I will do, Ms. Coleman. I know you own a house. I will consolidate all your debts, and I will lend you \$5,000 for home improvement. The next thing you know, she has signed a \$65,000 mortgage on the home she owned and had worked for for a lifetime. The next thing you know, they are holding these closings without inviting her. They are not giving her the papers to sign. They have broker's fees that were never disclosed to her. They find out that checks that were supposed to go to her creditors aren't going to creditors. They are finding out basically that there is money missing.

There sits Ms. Coleman with a second mortgage on her home and the prospect of losing her home in her retirement at the age of 68. Those are the people we are talking about. Those are the folks knocking on the doors, ringing the telephone off the hook night and day, sending all these luring mailings to people saying: You can just sign the back of this little check, and the next thing you know, there will be money in your hand.

The next thing you know, there is a new mortgage on your home. And if you miss a payment or if you don't understand the terms, you could lose it.

It didn't just happen in Illinois. It happens all over the place. In fact, it has happened in Utah, two or three cases of balloon payments. Do you know what a balloon payment is? You make the regular monthly payments; everything is going along fine. There is a small clause in the contract that says: At one point in time you had better come up with \$49,000 or you lose your home. That is a balloon payment. Many borrowers don't know the details, particularly if they are folks who are elderly. They don't see well. They may not hear well. They think they are doing the right thing. They, of course, have the legal capacity to sign a contract. The next thing you know, they end up with their home on the line. They may end up in bankruptcy court.

What I am saying with this amendment is, we are not going to give them a chance to use the bankruptcy courts of America as a fishing expedition for the well-earned assets of American families.

This amendment was part of the bankruptcy bill we passed last year 97-1. If there is anybody sitting on the floor saying this idea is way too radical, they voted for it last year. They voted for it last year 97-1. It is something that should be part of this bill.

If you are outraged by the lawyers who are ripping off the system, as I see my friend, the Senator from Alabama, on the floor, who brings this up regularly, if you are outraged by those who go to bankruptcy court who shouldn't be there, share your outrage when it comes to these predatory lenders. Join me in passing an amendment that tells them once and for all, you can't use our legal system to continue this deceptive scheme.

We have found in the course of researching this matter that there are several different approaches these predatory lenders use. They engage in practices where they lend somebody money far beyond their ability to repay. They know going in, with a borrower of limited savings and equity in a home, that they can put that borrower on the spot where, in a short period of time, they are going to default.

We know as well that they try to make an arrangement saying: I will tell you what, we will put the siding on the home. We will make the direct payments to the home contractor, and don't you worry about it. The next thing you know, they have signed the mortgage, the home contractor is not paid, and the poor widow finds herself being assaulted in every direction by those who expect to be paid and finds herself in bankruptcy court.

They impose illegal fees, such as prepayment penalties or increased interest rates at default. They impose balloon payments due in less than 5 years.

We have a group of people who are gaming the system at the expense of the most vulnerable people in America.

This amendment does not add any additional requirements to current law. It says that those who want to lend money have to themselves obey the law. If you want to stand for law and order when it comes to somebody coming into bankruptcy court, a debtor who can no longer pay their debts, if you want to establish new and higher standards for them so that they don't rip off the system, for goodness' sake, show some heart when it comes to those who are in bankruptcy court through no fault of their own. They are elderly people who signed onto the contract, and the next thing you know the only thing they own on Earth is at risk.

I have considered this amendment. I have read the transcripts of hearings, particularly the one from Senator GRASSLEY's Committee on Aging. I have read some testimony there that I think says it all. But Senator GRASSLEY's own words really put this in context. In March of 1988, he said as follows:

What exactly are we talking about when we say that equity predators target folks who are equity-rich and cash-poor? These folks are our mothers and our fathers, our aunts and our uncles, and all people who live on fixed incomes. These are people who oftentimes exist from check to check and dollar to dollar, and who have put their blood, sweat and tears into buying a piece of the American dream, and that is their own home.

Senator COLLINS of Maine at the same hearing noted, I think accurately, that we need higher legal standards for those who provide financial services to senior citizens. Let me remind the Senate, I don't impose a higher legal standard here. I only say that those who want to take advantage of the bankruptcy court have to come in with clean hands. If they have been guilty of misuse of the law, dereliction of duty, or violation of the law, they should not be allowed to recover.

Senator LARRY CRAIG, a Republican of Idaho, said at the same hearing: There are many loopholes found in existing protection laws which can and are easily exploited by these creditors. Statements by Senator ENZI and so many of my colleagues attest to the fact that they know that in every State in the Union these smoothies are at work.

The question today before the Senate is what we will do about it. These low-life lenders who give the Merchant of Venice credit standards a good name are the people who will be protected if the Durbin amendment is defeated.

I hope if we are going to hold to a high standard those seeking relief in bankruptcy court, that we start with those who have been shown time and time again to have taken advantage of the system.

I reserve the remainder of my time.

The PRESIDING OFFICER. All time on the Democratic side has expired.

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, what we have before us this afternoon is a perfect example of what can happen when a bankruptcy bill is on the floor, and Members are offering amendments that have nothing to do with bankruptcy law but everything to do with banking.

We have two amendments before us, and I have a short period of time, so I'll make my points briefly.

The amendment offered by Senator DURBIN basically attempts to enforce the truth-in-lending law—which has many remedies under current banking law, including damages, including class action suits—through a new mechanism, the bankruptcy courts.

What is the practical import of all this, and why is this opposed by virtually everybody who is involved in mortgage lending?

Basically, it is a violation of truth in lending to lend money to someone who is not capable of paying it back. So, if we change the law—if we change permanent banking law as part of this bankruptcy bill—to say that if a borrower can prove that someone violated the Truth in Lending Act, then he doesn't have to pay back his mortgage loan when he's in bankruptcy, what is going to happen?

What is going to happen is that everybody in bankruptcy who has a mortgage loan is going to file a lawsuit claiming, Well, obviously, I am bankrupt, so the lender should have known I could not pay this loan back; therefore, under the Durbin amendment, I should not have to pay it back.

This is an absurd amendment that would undercut truth in lending, which has more enforcement powers than most other lending laws in America, by literally creating a situation where every deadbeat would file a lawsuit saying: I have gone bankrupt because I have spent my money. I have not paid my bills, and because I have gone bankrupt, it is the bank's fault; therefore, I should be able to default on my mortgage. Which would mean that every honest person in America who pays their bills, who sacrifices and saves their money and pays off their mortgage, will end up paying a higher rate of interest.

So I hope our colleagues will roundly defeat this amendment. It has absolutely nothing to do with bankruptcy law, and everything to do with banking law, and it should not even be considered.

The second amendment I want to mention is paternalism at its worst, and that is the amendment of my dear friend, Senator DODD, which would require students between the ages of 18 and 21 to get parental consent in order to be issued a credit card.

I want to remind my colleagues that college students who are 18 and older are adults under Federal law for purposes of credit. This amendment would therefore be a violation of the Federal Equal Credit Opportunity Act, which prohibits the use of age on a discriminatory basis against anyone over 18 years of age.

The second point I want to make is that this concern about the danger of students having credit cards is based on a myth. Fifty-nine percent of all college students in America pay their balance in full at the end of the month. But only 40 percent of the general population pays their balance in full. Eighty-six percent of students pay their credit cards with their own money, not with their parents' money. The plain truth is that college students are better credit card risks than the general population. It is obvious that if you are dealing with people who are highly motivated, highly disciplined, successful college students, you want them to become your customer because they are going to go out and make a lot of money and become very profitable customers. The idea that we would be engaged in this sort of paternalism, which would require every student in America, even though it is against the law for the bank to discriminate against them if they are over 18—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRASSLEY. Mr. President, I will yield the Senator 1 more minute, the Senator from Pennsylvania 2 minutes, and the Senator from Alabama 3 minutes. That will be the remainder of our time.

The PRESIDING OFFICER. The Senator from Texas may continue for another minute.

Mr. GRAMM. Mr. President, the idea that we in the U.S. Congress are going to pass a law that takes adults, under our Federal credit statutes, and force them to go back to their parents in order to get a credit card, when the credit behavior of students is superior to the general population, is simply an outrage. Our Democrat colleagues cannot get it right. When we debated the banking bill, they were concerned that banks wouldn't lend money to people who are needy. But when we are debating the bankruptcy bill, it is the bank's fault for lending too much money to people who are needy. They can't quite get it straight. I guess it varies depending on which bill are considering. Both of these amendments should be roundly defeated.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I thank the Senator from New York for his amendment dealing with disclosure—as the Senator from New York talked about in his remarks—on credit card solicitations, as to what the real interest rate is that is going to be involved and all the other information

that is necessary for consumers to make intelligent decisions as to whether to contract with a credit card company.

All of us get solicitations—I do every day—in the mail offering outrageously low rates of interest. I have looked through them and it is very difficult, even for somebody who is somewhat sophisticated in looking at this information, to find what the true interest rate is and the true terms of the credit card for which you may be signing up.

What the amendment of the Senator from New York does is put it in an obvious place, in clear and bold type, in a box, in a format that people are used to using, as a result of his legislation from a few years ago with respect to credit card statements. This would make it applicable to applications and to solicitations. I think it is a constructive amendment, a disclosure-oriented amendment. It is not something I think is unduly burdensome and it can be helpful to everybody, not just seniors and the others who may have difficulty reading the small print and understanding very complex legal documents but also the average consumer who wants to be able to make intelligent decisions. And what we are looking at in this bill is the failures as a result of credit card overpayments, as a result of decreased savings rates. This is the kind of commonsense type of thing we ought to be supporting.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I know some young people get in trouble by overspending their credit cards. A lot of adults get in trouble for that. The fact is, I don't believe we, as part of an effort to reform the bankruptcy court, need to be, at this moment, offering amendments; that ought to be done in the Banking Committee. There have been complaints about the fact that credit card solicitations are mailed out to people. Let me say this: We have had a banking bill in which Members have been outraged that banks won't loan to high-risk people, and they are complaining about not making enough loans. It is odd, striking, and shocking to me that poor people are being told they ought not to be even offered credit cards. Some say they are being mailed credit cards. Not so. It is a Federal law, a crime, and it is prohibited to mail credit cards unrequested to somebody. What they are receiving is offers of credit cards. They have to fill out forms and show their income and all that, and they may or may not get it once they fill it out. But to say you can't even offer a person below the poverty level a credit card is amazing to me. Credit cards are good for poor people.

If somebody has a credit card and his tire blows up and he needs a set of tires for his car and doesn't have \$200 cash, what is he going to do, park it until he

can save up the money? With a credit card, he can do that and pay it off as he can. Credit cards are valuable things for poor people, for heaven's sake.

For young people, we have this vision that an 18-year-old at college who is being funded by mama runs up a big debt on his credit card. The truth is, a lot of people are not doing that. A lot of people who are 18, 19, and 20 years old will be affected by this legislation, and they may be married, out on their own, going to college during the night, and working during the day. They have to get mama and daddy to sign on before they can even get the credit card they may need to help them through the unexpected expenses that may occur for them.

The suggestion that somehow poor people are being oppressed by being offered credit cards is beyond my comprehension. In fact, one of the good things that is occurring is that we are seeing some competition now. Rates are coming down. People have alternatives. They can cancel a card and get a better card.

The PRESIDING OFFICER. All time has expired. The question is on the Durbin amendment No. 2521.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Is the Durbin amendment the first vote?

The PRESIDING OFFICER. Yes.

Mr. REID. Mr. President, under the unanimous consent agreement, Senator DURBIN and whoever wants to close on that side have 2 minutes, correct?

The PRESIDING OFFICER. There is no unanimous consent agreement to that effect.

Mr. REID. Based on what we have done in the past, Senators have been expecting that. I ask unanimous consent that on this amendment and the other, there be 4 minutes evenly divided.

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

The Senator from Illinois is recognized for 2 minutes.

Mr. DODD. Reserving the right to object, does that also apply to the Dodd amendment?

The PRESIDING OFFICER. There was also an agreement on the Dodd amendment.

The Senator from Illinois, Mr. DURBIN, is recognized.

AMENDMENT NO. 2521

Mr. DURBIN. Mr. President, this amendment was enacted by the Senate as part of the bankruptcy bill last year. The bill received a vote of 97-1. It imposes no new legal duties on creditors or lenders but says they must follow the law if they want to take advantage of the law.

We are talking about equity creditors, lenders who prey on people who are disabled, elderly, vulnerable, and less educated. Folks on a fixed income

with a home end up with a new mortgage because they wanted siding on their home or a new roof and several months or years later find out they are about to lose the last thing they have on Earth—their home—because of unscrupulous practices by these creditors.

The bottom line is this: If we are going to have rules in this society for borrowers, we should also have rules for creditors. The rules are called the law. If they do not follow the law, they can be thrown out of bankruptcy court if they are a borrower. If they do not follow the law and the Durbin amendment passes, they will be thrown out of the court because they have been guilty of unscrupulous credit practices, taking advantage of the elderly.

All the Senators on the floor who have lamented the scandalous behavior of these creditors in the past have a chance now to vote for an amendment to tell them once and for all that their low-life tactics are unacceptable in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we have a truth-in-lending law. It is vigorously enforced with many remedies, including damages in class action lawsuits.

Senator DURBIN's amendment would make bankruptcy courts, which have no jurisdiction over truth in lending whatsoever, an enforcement mechanism of the truth-in-lending law. This produces an absurd situation. Under truth in lending, the lender has an obligation to make some assessment about the borrower's ability to pay. Under this amendment, everyone who is in default or in bankruptcy will be able to argue that the bank should have known that the lender could not pay the loan back and therefore the mortgage should be forgiven.

The net result is that hard-working, frugal people who save money and pay their debts would end up paying hundreds of millions of dollars, billions of dollars, in additional interest costs to cover people who would file lawsuits claiming, "Well, I went broke and it's the bank's fault, and therefore I shouldn't have to pay my mortgage."

This amendment should be defeated. Giving one court, which has no jurisdiction over the pertinent law, the ability to enforce that law, which rightly belongs in another court, is, I think, a gross violation of logic and the basic structure of the legal system. This is a bad amendment that will produce an even worse situation where honest people who pay their debts will end up paying higher interest rates for people who don't pay their debts.

I move to table the Durbin amendment.

Mr. GRASSLEY. 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2521. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is absent because of a death in the family.

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—51

Abraham	Enzi	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee, L.	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Stevens
Coverdell	Johnson	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	Mack	Warner

NAYS—46

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Grassley	Murray
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Breaux	Jeffords	Robb
Bryan	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

ANSWERED "PRESENT"—1

Fitzgerald

NOT VOTING—2

Hollings McCain

The motion was agreed to.

Mr. LOTT. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The majority leader.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 257

Mr. LOTT. As in executive session, I ask unanimous consent that immediately following the next vote, the Senate proceed to executive session and an immediate vote on Calendar No. 257, the nomination of Linda Morgan to

be a member of the Surface Transportation Board. I further ask consent that immediately following the vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

Let me confirm, as a result of this vote, there are about five or six other nominations that will be cleared tonight in wrapup.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. LOTT. Mr. President, I ask unanimous consent that the next two votes be 10-minute votes.

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

AMENDMENT NO. 2754

The PRESIDING OFFICER. Under the previous order, there are now 4 minutes equally divided prior to the vote on or in relation to the Dodd amendment No. 2754.

Who yields time?

Mr. KENNEDY. Mr. President, Senator DODD and I have proposed an amendment to address the explosion of credit card debt offered to students on college campuses.

The amendment prohibits a credit card company from giving an individual under the age of 21 a credit card unless the young person has income sufficient to repay the debt or a parent, guardian, or other family member over the age of 21 shares liability for the credit card. Credit card applications and solicitations must disclose this information to potential consumers.

This amendment is particularly appropriate during debate on bankruptcy reform legislation. We know that credit card debt may not be the sole factor leading to bankruptcy, but for many individuals it is a significant contributing factor.

Congress should be particularly concerned that since 1991, there has been a 50-percent increase in bankruptcy filings by those under the age of 25. In many cases, these are young men and women who are just establishing their independence—and just starting to build a credit history. Poor financial decisions, especially credit card mismanagement can have long-term implications.

We know the siren song of the credit card industry is loud and clear. In 1998, credit card issuers sent out 3.45 billion credit card solicitations to people of all ages, including college students and others who may not have the ability to repay their debts. In fact, First USA recently issued a credit card to 3-year-old Alessandra Scalise. Alessandra's mother said she accurately completed and mailed in the preapproved credit card application as a joke. There was no Social Security number or income

listed and Alessandra's occupation was listed as "preschooler." Apparently, this didn't make a difference to First USA. Alessandra received a Platinum Visa with a \$5,000 credit limit.

This incident may be attributable to "human error" but there are numerous examples of irresponsible lending practices by credit card issuers—especially when they lend to students who don't have the capacity to repay their debts.

For example, one Discover platinum card issuer's terms of qualification require a minimum household income of \$15,000 unless you are a full-time student. Discover explains that an individual either has to have a \$15,000 minimum income or needs to prove that they are a full-time student. Student applications are rejected only if they have a bad credit history—a prior bankruptcy filing, for example—or if their student status can not be confirmed.

During a February 1998 Banking Subcommittee hearing, Senator SARBANES asked credit card issuers how they determined student income. Bruce Hammonds, senior vice chairman and chief operating officer of MBNA Corporation responded if a student has a loan, "that means they do not have to pay tuition in most cases and we are looking at that tuition payment. Then we would not count the tuition payment against them with their income and expense analysis." In other words, the company ignores the reality of tuition and views a student loan as "free" money—an income stream that can be used to repay credit care debt.

Not surprisingly, credit card companies have unleashed a well-organized and pervasive campaign to attract student consumers. Credit is available to almost any college student—no income, no credit history, and no parental signature required. The National Bankruptcy Review Commission received an advertisement for a 2-day workshop for creditors entitled, "Competing in the Sub Prime Credit Card Market," including a presentation entitled, "Targeting College Students: Real Life 101," with tips on how to "target the money makers of tomorrow."

Students are targeted by the industry the moment they step on to a college campus. Applications are placed in their book bags at the student store, and tempting gifts and bonuses and low teaser rates are used to entice them to send in the application. The American Express Card for College Students has a teaser rate of 7.75 percent for the first 90 days, then it more than doubles to 15.65 percent. Perks include Continental Airlines travel vouchers. The Citibank College Card for Students initial rate is 8.9 percent for 9 months and then it skyrockets to 17.15 percent. The incentive? Eight American Airlines travel coupons.

Brian is a student at the University of Minnesota. He said,