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PUBLIC HEARING

before

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

SENATE BILLS 1160, 1560, 1561, 1562, 1563 and 1632

(Bills regulating credit card interest rates)

April 17, 1986
Room 334
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Raymond Lesniak, Chairman
Senator Christopher J. Jackman, Vice Chairman
Senator Edward T. O'Connor, Jr.
Senator Gerald Cardinale
Senator Donald T. DiFrancesco

ALSO PRESENT:

Dale C. Davis, Jr.
Office of Legislative Services
Aide, Senate Labor, Industry and
Professions Committee

New Jersey State Library

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Trenton, New Jersey 08625



New Jersey State Legislature

RAYMOND LESNIAK
Chairman
CHRISTOPHER J. JACKMAN
Vice-Chairman
EDWARD T. O'CONNOR, JR.
GERALD CARDINALE
DONALD T. DIFRANCESCO

**SENATE LABOR, INDUSTRY
AND PROFESSIONS COMMITTEE**
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 984-0445

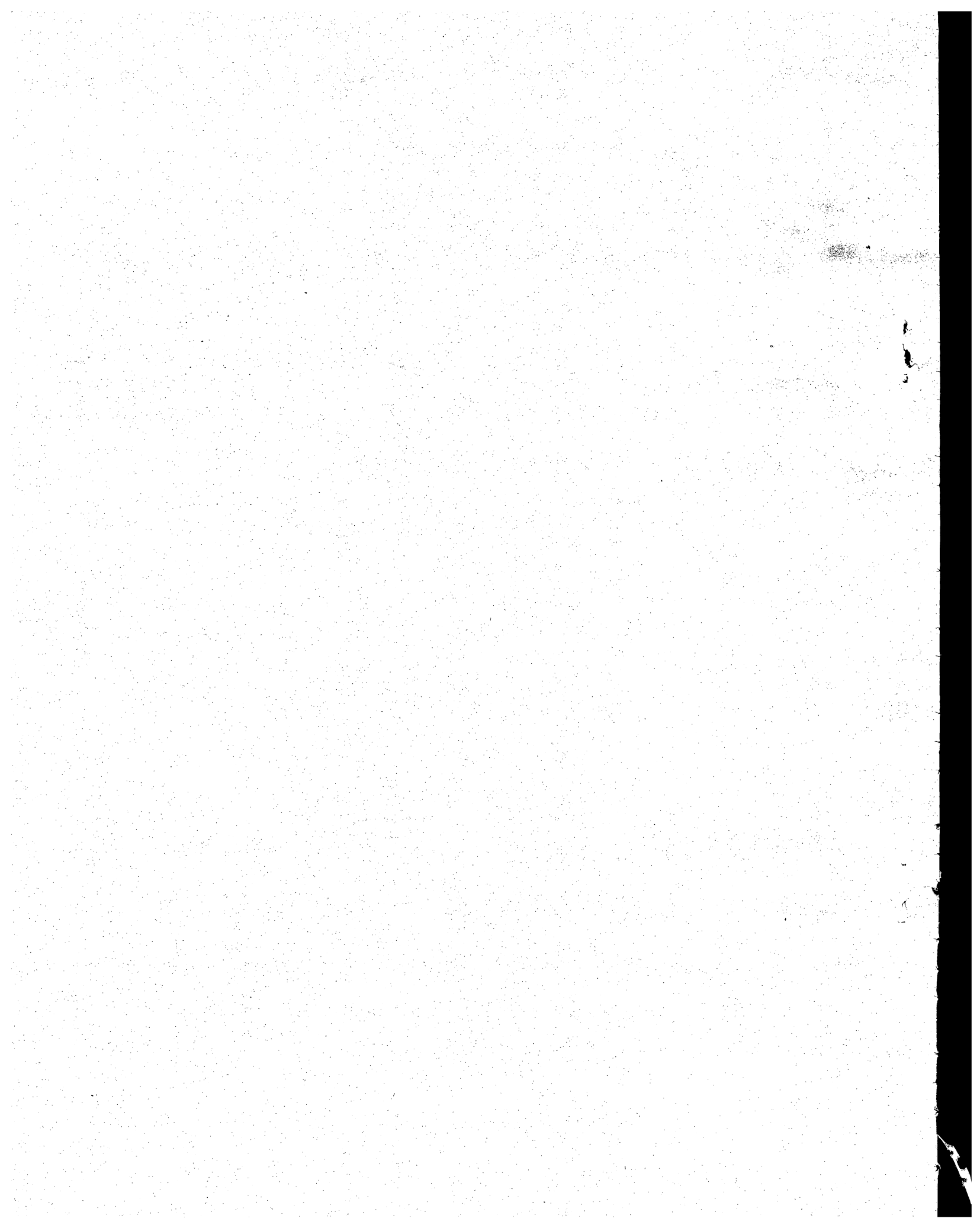
March 31, 1986

NOTICE OF A PUBLIC HEARING

The Senate Labor, Industry and Professions Committee will hold a public hearing on Thursday, April 17, 1986, at 10:00 AM., in Room 334, State House Annex, on the following bills:

- | | |
|-----------------------------------|---|
| <u>S-1160</u>
<u>Feldman</u> | Prohibits surcharges on credit card purchases. |
| <u>S-1560</u>
<u>Dorsey</u> | Establishes an interest rate ceiling on revolving accounts for which a credit card is used. |
| <u>S-1561</u>
<u>Connors</u> | Requires the reporting of interest rates for credit cards. |
| <u>S-1562</u>
<u>Garibaldi</u> | Provides for the regulation of the interest rate on credit cards under certain circumstances. |
| <u>S-1563</u>
<u>Gagliano</u> | Establishes an interest rate ceiling on revolving accounts for which a credit card is used. |
| <u>S-1632</u>
<u>Contillo</u> | Establishes an interest ceiling on credit cards. |

Anyone wishing to testify should contact Dale Davis,
Committee Staff, at 609-984-0445.



SENATE, No. 1160

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION
By Senator FELDMAN

SENATE, No. 1500

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1984

By Senator FELDMAN

Referred to Committee on Labor, Industry and Professions

AN ACT concerning surcharges on credit card purchases and
amending and supplementing P. L. 1960, c. 40.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 1 of P. L. 1960, c. 40 (C. 17:16C-1) is amended to read
2 as follows:

3 1. In this act, unless the context otherwise requires, the following
4 words and terms shall have the following meanings:

5 (a) "Goods" means all chattels personal which are primarily
6 for personal, family or household purposes, including merchandise
7 certificates and coupons to be exchanged for goods or services,
8 having a cash price of \$10,000.00 or less, but not including money
9 or other choses in action. Goods shall not include chattels personal
10 sold for commercial or business use.

11 (b) "Retail installment contract" means any contract, other
12 than a retail charge account or an instrument reflecting a sale
13 pursuant thereto, entered into in this State between a retail seller
14 and a retail buyer evidencing an agreement to pay the retail pur-
15 chase price of goods or services, which are primarily for personal,
16 family or household purposes, or any part thereof, in two or more
17 installments over a period of time. This term includes a security
18 agreement, chattel mortgage, conditional sales contract, or other
19 similar instrument and any contract for the bailment or leasing
20 of goods by which the bailee or lessee agrees to pay as compensa-
21 tion a sum substantially equivalent to or in excess of the value of

Matter printed in italics *thus is new matter.*

22 the goods, and by which it is agreed that the bailee or lessee is
23 bound to become, or has the option of becoming, the owner of such
24 goods upon full compliance with the terms of such retail install-
25 ment contract.

26 (c) "Retail seller" means a person who sells or agrees to sell
27 goods or services under a retail installment contract or a retail
28 charge account to a retail buyer, and shall include a motor vehicle
29 installment seller.

30 (d) "Retail buyer" means a person who buys or agrees to buy
31 goods or services from a retail seller, not for the purpose of re-
32 sale, pursuant to a retail installment contract or a retail charge
33 account.

34 (e) "Person" means an individual, partnership, firm, corpora-
35 tion, banking institution, association or any other group of indi-
36 viduals however organized.

37 (f) "Sales finance company" means and includes any person
38 engaging in this State in the business of acquiring or arranging
39 for the acquisition of retail installment contracts or obligations
40 incurred pursuant to retail charge accounts by purchase, discount,
41 pledge or otherwise from a retail seller which is not wholly owned
42 by or does not wholly own such person, and any person engaging,
43 directly or indirectly, in the business of soliciting the purchase of
44 retail installment contracts or obligations incurred pursuant to
45 retail charge accounts from a retail seller which is not wholly
46 owned by or does not wholly own such person, or in the business
47 of aiding the retail seller in selling, assigning or arranging for the
48 sale or assignment of retail installment contracts or obligations
49 incurred pursuant to retail charge accounts, and any person other
50 than a retail seller who enters into a retail charge account with a
51 retail buyer.

52 (g) "Motor vehicle" includes all vehicles used for transportation
53 upon highway propelled otherwise than by muscular power, ex-
54 cepting such vehicles as run only upon rails or tracks.

55 (h) "Motor vehicle installment seller" means a dealer in motor
56 vehicles, who is required to be licensed under chapter 10 of Title 39
57 of the Revised Statutes and who sells or offers to sell a motor
58 vehicle to a retail buyer under a retail installment contract.

59 (i) "Cash price" means the minimum price for which the goods
60 or services subject to a retail installment contract or a retail charge
61 account or other goods or services of like kind and quality may be
62 purchased for cash from the seller by the buyer, as stated in the
63 retail installment contract, the retail charge account or an instru-
64 ment reflecting a sale pursuant thereto.

65 (j) "Down payment" means all payments made in cash or in
66 goods or partly in cash and partly in goods, received by the retail
67 seller prior to or substantially contemporaneous with either the
68 execution of the retail installment contract or the delivery of the
69 goods, whichever occurs later.

70 (k) "Official fees" means the filing or other fees required by
71 law to be paid to a public officer to perfect an interest or lien, on
72 the goods, retained or taken by a retail seller under a retail in-
73 stallment contract and motor vehicle license and transfer fees
74 paid to the State.

75 (l) "Time price differential" means the amount or amounts,
76 however denominated or computed, in addition to the cash price
77 or prices, to be paid by the retail buyer for the privilege of pur-
78 chasing goods or services pursuant to a retail installment contract
79 or a retail charge account. The term does not include the amount,
80 if a separate charge is made therefor, for insurance and official
81 fees.

82 (m) "Holder" means any person, including a retail seller, who
83 is entitled to the rights of a retail seller under a retail installment
84 contract or retail charge account.

85 (n) "Banking institution" means any bank, national banking
86 association, savings bank, or federally chartered savings bank, au-
87 thorized to do business in this State, and for the purposes of this
88 act only, an association as defined in section 5 of the "Savings and
89 Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-5).

90 (o) "Commissioner" means the Commissioner of Banking of
91 New Jersey and includes his deputies or any salaried employee of
92 the Department of Banking named or appointed by the said com-
93 missioner to perform any function in the administration or enforce-
94 ment of this act.

95 (p) "Payment-period" means the period of time scheduled by
96 a retail installment contract to elapse between the days upon which
97 installment payments are scheduled to be made on such contract;
98 except that, when installment payments are scheduled to be omitted,
99 pursuant to section 26, "payment-period" means the period of time
100 scheduled by the contract to elapse between the days upon which
101 installment payments are scheduled to be made during that portion
102 of the contract period in which no installment payment is scheduled
103 to be omitted.

104 (q) "Contract period" means the period beginning on the date
105 of a retail installment contract and ending on the date scheduled
106 by the contract for the payment of the final installment.

107 (r) "Retail charge account" means any account, other than a
108 retail installment contract or a home repair contract which is sub-

109 ject to the "Home Repair Financing Act" (P. L. 1960, c. 41;
110 C. 17:16C-62 et seq.), established by an agreement which prescribes
111 the terms under which a retail buyer may from time to time pur-
112 chase or lease goods or services which are primarily for personal,
113 family or household purposes, and under which the unpaid balance
114 thereunder, whenever incurred, is payable in one or more install-
115 ments and under which a time price differential may be added in
116 each billing period as provided herein. Retail charge account also
117 includes all accounts arising out of the utilization by the holder
118 of a credit card, letter of credit or other credit identification issued
119 by a sales finance company or banking institution, giving the holder
120 the privilege of using the credit card, letter of credit or other credit
121 identification to become a retail buyer in transactions out of which
122 debt arises: (1) by the sales finance company's or banking institu-
123 tion's payment or agreement to pay the retail buyer's obligations;
124 or (2) by the sales finance company's or banking institution's pur-
125 chase from the retail seller of the obligations of the user of the
126 credit card, letter of credit or other credit identification as a retail
127 buyer.

128 (s) "Services" means and includes work, labor and services,
129 professional and otherwise which are primarily for personal, fam-
130 ily or household purposes but does not include services which are
131 subject to the "Home Repair Financing Act," and insurance pre-
132 miums financing which is subject to the "Insurance Premium Fi-
133 nance Company Act" (P. L. 1968, c. 221; C. 17:16D-1 et seq.).

134 (t) "Billing period" means the time interval between regular
135 periodic billing statement dates. In the case of monthly billing
136 periods, such intervals shall be considered equal intervals of time
137 if the billing date of a billing period does not vary more than four
138 days from the billing date of the immediately preceding billing
139 period. In the case of billing periods which are not monthly, the
140 permissible variation in billing dates shall be that proportion of
141 four days (adjusted to the nearest whole number) which the num-
142 ber of days in the billing period bears to 30.

143 (u) "Professional services" means services rendered or per-
144 formed by a person authorized by law to practice a recognized
145 profession whose practice is regulated by law and the performance
146 of which services requires knowledge of an advanced type in a
147 field of learning acquired by a prolonged formal course of special-
148 ized instruction and study as distinguished from general academic
149 instruction or apprenticeship and training.

150 (v) "Surcharge" means any increase in the cash price of goods
151 or services not otherwise authorized by P. L. 1960, c. 40 (C.

152 17:16C-1 et seq.) to a retail buyer who elects to use a retail charge
153 account, which increase is not imposed upon persons paying by
154 cash, check or similar means.

- 1 2. (New section) A retail seller shall not impose a surcharge on
- 2 a retail buyer who elects to use a retail charge account to pay for
- 3 goods or services in lieu of payment by cash, check or similar means.
- 1 3. This act shall take effect immediately.

STATEMENT

This bill would amend and supplement the "Retail Installment Sales Act of 1960," P. L. 1960, c. 40 (C. 17:16C-1 et seq.) to prohibit surcharges on credit card purchases. The federal ban on these surcharges, contained in section 167 of Title I of the Consumer Credit Protection Act, Pub. L. 90-321 (15 U. S. C. 1666f) ceased to be effective on February 27, 1984. This bill ensures that the ban on their surcharges would continue in New Jersey. In addition, technical amendments clarify the inclusion of banking institutions within the definition of credit card issuers.



SENATE, No. 1560

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Senator DORSEY

Referred to Committee on Energy and Environment.

**AN ACT concerning certain interest rates, and supplementing
Title 17 of the Revised Statutes.**

1 **BE IT ENACTED by the Senate and General Assembly of the State**
2 **of New Jersey:**

1 1. If the commissioner finds, no later than six months after the
2 date of enactment of this act, that the average prevailing interest
3 rate being charged on any loan or extension of credit made after
4 the effective date of this act: a. by State and federally chartered
5 banks, savings banks and savings and loan associations; b. by
6 small loan companies licensed pursuant to R. S. 17:10-1 et seq.;
7 and c. by any other lender, on revolving or open end accounts for
8 which a credit card is used to draw upon the principal amount or
9 credit line, exceeds the Monthly Index of Long Term United
10 States Government Bond Yields, compiled by the Board of Gov-
11 ernors of the Federal Reserve System and as published by the
12 board in the Monthly Federal Reserve Bulletin, for the second
13 preceding calendar month, plus an additional 8%, rounded off to
14 the nearest quarter of 1% per annum, the commissioner shall
15 establish this interest rate ceiling by regulation, which ceiling shall
16 thereafter be applicable to those accounts.

1 2. a. If the commissioner establishes an interest rate ceiling
2 pursuant to section 1 of this act, no bank, savings bank, or savings
3 and loan association which has its principal office outside New
4 Jersey shall maintain any loan production office or other office in
5 this State for the purpose of making loans and investments in this
6 State if:

7 (1) The bank, savings bank or savings and loan association
 8 lends money or provides credit to residents of this State by means
 9 of a revolving or open end account for which a credit card is used
 10 to draw upon the principal amount or credit line; and

11 (2) The bank, savings bank, or savings and loan association
 12 charges a rate of interest on the loan which exceeds the rate estab-
 13 lished pursuant to section 1 of this act.

14 b. If the commissioner finds that any bank, savings bank, or
 15 savings and loan association which has its principal office outside
 16 New Jersey has violated the provisions of subsection a. of this
 17 section, the commissioner shall take possession of the loan pro-
 18 duction office pursuant to the provisions of Article 42 of P. L.
 19 1948, c. 67 (C. 17:9A-266 et seq.).

1 3. Any person charging interest in excess of the amount per-
 2 mitted by section 1 of this act shall be guilty of criminal usury
 3 pursuant to N. J. S. 2C:21-19.

1 4. This act shall take effect immediately, and shall expire on
 2 the 730th day following enactment.

STATEMENT

This bill requires the Commissioner of Banking, under certain circumstances, to establish an interest rate ceiling applicable to all revolving and open end accounts for which a credit card is used.

The bill would prohibit out-of-state banks from establishing or maintaining loan production offices in New Jersey if they do not adhere to the rate.

BANKING AND FINANCIAL INSTITUTIONS

Banks—Credit card int. ceilings

Establishes an interest rate ceiling on revolving accounts for which a credit card is used.

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Senators CONNORS, GARIBALDI, CARDINALE, HURLEY,
BASSANO, DiFRANCESCO, BUBBA and McNAMARA

Referred to Committee on Labor, Industry and Professions

AN ACT concerning the reporting of certain interest rates, and
supplementing Title 17 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. a. Every State or federally chartered bank, savings bank, and
2 savings and loan association, every small loan company licensed
3 pursuant to R. S. 17:10-1 et seq., and every person who lends
4 money by means of a revolving or open end account for which a
5 credit card is used to draw upon the principal amount or credit
6 line shall file with the Commissioner of Banking every three months,
7 in accordance with a schedule established by the commissioner,
8 the interest rate which is then being charged by the lender on these
9 accounts.

10 b. The commissioner, upon receipt of the information required
11 by subsection a. of this section, shall send a compilation thereof
12 to every daily and weekly newspaper of general circulation in this
13 State.

1 2. Any person violating the provisions of this act shall be guilty
2 of a disorderly persons offense.

1 3. This act shall take effect immediately.

STATEMENT

This bill requires all federally and state chartered banks, sav-
ings banks, savings and loan associations, all small loan companies,
and all other persons who lend money by means of a revolving or

open end account for which a credit card is used to draw upon the principal amount to report the interest rates which they charge on the accounts to the Commissioner of Banking. The commissioner would be required to disseminate the information to newspapers.

BANKING AND FINANCIAL INSTITUTIONS

Info. on credit card rates

Requires the reporting of interest rates for credit cards and the dissemination of the information.

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Senators GARIBALDI, CONNORS, CARDINALE, HURLEY,
BASSANO, DiFRANCESCO and BUBBA

Referred to Committee on Labor, Industry and Professions

AN ACT concerning certain interest rates, and supplementing Title
17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. If the Commissioner of Banking finds, no later than six months
2 after the date of enactment of this act, that the average prevailing
3 interest rate being charged on any loan or extension of credit
4 made after the effective date of this act: a. by state and federally
5 chartered banks, savings banks and savings and loan associations;
6 b. by small loan companies licensed pursuant to R. S. 17:10-1 et
7 seq.; and c. by any other lender, on revolving or open end accounts
8 for which a credit card is used to draw upon the principal amount
9 or credit line, exceeds the average base rate on commercial loans
10 for large United States money center banks, plus an additional
11 2½%, rounded off to the nearest quarter of 1% per annum, the
12 commissioner shall establish this interest rate ceiling by regulation
13 and shall continue to do so for each quarter thereafter, which
14 ceiling shall thereafter be applicable to those accounts.

1 2. a. If the commissioner establishes an interest rate ceiling pur-
2 suant to section 1 of this act, no bank, savings bank, or savings and
3 loan association which has its principal office outside New Jersey
4 shall maintain any loan production office or other office in this
5 State for the purpose of making loans and investments in this
6 State if:

7 (1) The bank, savings bank or savings and loan association
 8 lends money or provides credit to residents of this State by means
 9 of a revolving or open end account for which a credit card is used
 10 to draw upon the principal amount or credit line; and

11 (2) The bank, savings bank, or savings and loan association
 12 charges a rate of interest on the loan which exceeds the rate es-
 13 tablished pursuant to section 1 of this act.

14 b. If the commissioner finds that any bank, savings bank, or sav-
 15 ings and loan association which has its principal office outside New
 16 Jersey has violated the provisions of subsection a. of this section,
 17 the commissioner shall take possession of the loan production
 18 office pursuant to the provisions of Article 42 of P. L. 1948, c. 67
 19 (C. 17:9A-266 et seq.).

1 3. Any person charging interest in excess of the amount per-
 2 mitted by section 1 of this act shall be guilty of criminal usury pur-
 3 suant to N. J. S. 2C:21-19.

1 4. This act shall take effect immediately, and shall expire on
 2 the 730th day following enactment.

STATEMENT

This bill requires the Commissioner of Banking, under certain circumstances to establish an interest rate ceiling applicable to all revolving and open end accounts for which a credit card is used.

This bill would prohibit out-of-state banks from establishing or maintaining loan production offices in New Jersey if they do not adhere to the rate.

BANKING AND FINANCIAL INSTITUTIONS

Reg. of int. on credit cards

Provides for the regulation of the interest rate on credit cards under certain circumstances.

SENATE, No. 1563

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Senators GAGLIANO, DiFRANCESCO, BASSANO, DORSEY,
BUBBA, CONNORS, BROWN, CARDINALE and HURLEY

Referred to Committee on Labor, Industry and Professions

AN ACT concerning certain interest rates, and supplementing
Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. If the Commissioner of Banking finds, no later than six
2 months after the date of enactment of this act, that the average
3 prevailing interest rate being charged on any loan or extension
4 of credit made after the effective date of this act: a. by state
5 and federally chartered banks, savings banks and savings and
6 loan associations; b. by small loan companies licensed pursuant
7 to R. S. 17:10-1 et seq.; and c. by any other lender, on revolving
8 or open end accounts for which a credit card is used to draw upon
9 the principal amount or credit line, exceeds the average base
10 rate on commercial loans for large United States money center
11 banks, plus an additional 3%, rounded off to the nearest quarter
12 of 1% per annum, the commissioner shall establish this interest
13 rate ceiling by regulation and shall continue to do so for each
14 quarter thereafter, which ceiling shall thereafter be applicable
15 to those accounts.

1 2. a. If the commissioner establishes an interest rate ceiling
2 pursuant to section 1 of this act, no bank, savings bank, or savings
3 and loan association which has its principal office outside New
4 Jersey shall maintain any loan production office or other office
5 in this State for the purpose of making loans and investmets
6 in this State if:

7 (1) The bank, savings bank or savings and loan association
 8 lends money or provides credit to residents of this State by
 9 means of a revolving or open end account for which a credit
 10 card is used to draw upon the principal amount or credit line; and

11 (2) The bank, savings bank, or savings and loan association
 12 charges a rate of interest on the loan which exceeds the rate
 13 established pursuant to section 1 of this act.

14 b. If the commissioner finds that any bank, savings bank, or
 15 savings and loan association which has its principal office outside
 16 New Jersey has violated the provisions of subsection a. of this
 17 section, the commissioner shall take possession of the loan pro-
 18 duction office pursuant to the provisions of Article 42 of P. L.
 19 1948, c. 67 (C. 17:9A-266 et seq.).

1 3. Any person charging interest in excess of the amount per-
 2 mitted by section 1 of this act shall be guilty of criminal usury
 3 pursuant to N. J. S. 2C:21-19.

1 4. This act shall take effect immediately, and shall expire on
 2 the 730th day following enactment.

STATEMENT

This bill requires the Commissioner of Banking, under certain circumstances, to establish an interest rate ceiling applicable to all revolving and open end accounts for which a credit card is used.

The bill would prohibit out-of-state banks from establishing or maintaining loan production offices in New Jersey if they do not adhere to the rate.

BANKING AND FINANCIAL INSTITUTIONS

Banks—credit card int. ceilings

Establishes an interest rate ceiling on revolving accounts for which a credit card is used.

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1986

By Senators CONTILLO, ORECHIO, PALLONE, RUSSO,
VAN WAGNER, JACKMAN and ZANE

Referred to Committee on Labor, Industry and Professions

AN ACT to provide for the establishment of an interest rate ceiling on credit cards, and amending P. L. 1959, c. 91, R. S. 17:10-14, P. L. 1984, c. 171, P. L. 1971, c. 409, P. L. 1963, c. 144, and P. L. 1985, c. 81.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. Section 6 of P. L. 1959, c. 91 (C. 17:9A-59.6) is amended to
2 read as follows:

3 6. A. Notwithstanding the provisions of R. S. 31:1-1 or any
4 other law to the contrary, the rate **[or rates]** of interest in effect
5 for any calendar quarter on advance loans shall **[be as agreed to**
6 **by the bank and the borrower]** not exceed the interest rate ap-
7 plicable to 90-day United States Treasury bills issued during the
8 first week of the calendar quarter immediately preceding, plus an
9 additional 6%, rounded off to the nearest one-quarter of 1% per
10 annum. Interest may be reckoned according to any method autho-
11 rized by R. S. 31:1-1.

12 The contract may provide that the interest rate may be in-
13 creased, or may be decreased, or both, from time to time; provided,
14 however, that no increase in interest shall be effective unless: (a)
15 at least 90 days prior to the effective date of the first such increase,
16 or 30 days prior to the effective date of any subsequent increase, a
17 written notice has been mailed or delivered to the borrower that
18 clearly and conspicuously describes such change and the indebt-
19 edness to which it applies and states that the incurrence by the
20 borrower or another person authorized by him of any further in-
21 debtedness under the plan to which the agreement relates on or
22 after the effective date of the increase specified in the notice shall

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

23 constitute acceptance of the increase and (b) either the borrower
24 agrees in writing to the increase or the borrower or another person
25 authorized by him incurs such further indebtedness on or after the
26 effective date of the increase stated in the notice. The provisions
27 of this paragraph permitting an increase in a rate of interest shall
28 not apply in the case of an agreement which expressly prohibits
29 changing of interest rates or which provides limitations on changing
30 of interest rates which are more restrictive than the requirements
31 of this paragraph. If the contract provides for the possibility of
32 an increase or decrease, or both, in the rate, that fact shall be
33 clearly described in plain language, in at least 8-point bold face
34 type on the face of the contract.

35 B. For the purposes of this section, charges for premiums ad-
36 vanced by the bank for credit life insurance, or credit accident and
37 health insurance, or both, shall be treated as part of the principal
38 balance owing on an advance loan, but no such charge shall be
39 included in determining the maximum permissible indebtedness as
40 limited by section 11 of this act.

41 C. Notwithstanding the provisions of any other law to the con-
42 trary, a bank which issues a credit card in connection with an
43 advance loan contract in effect between the bank and the borrower
44 as authorized by this act may charge the borrower a fee not ex-
45 ceeding \$15.00 per annum on an annual or monthly basis; except
46 that, if under the advance loan contract, the bank may lend the
47 borrower an amount of \$5,000.00 or more, the bank may charge the
48 borrower a fee not exceeding \$50.00 per annum on an annual or
49 monthly basis. The charge so made (1) may be collected in advance,
50 (2) shall be in addition to and not in substitution of any other fee
51 or charge authorized by this act, and (3) shall not be deemed to be
52 an interest charge.

1 2. R. S. 17:10-14 is amended to read as follows:

2 17:10-14. Notwithstanding the provisions of R. S. 31:1-1 or
3 any other law to the contrary, every licensee hereunder may loan
4 any sum of money not exceeding \$5,000.00, repayable in install-
5 ments, and may charge, contract for and receive thereon interest at
6 an annual percentage rate or rates agreed to by the licensee and
7 the borrower, *except that in the case of any loan in which a credit*
8 *card is used to advance funds or to purchase goods and services,*
9 *the rate of interest applicable to the loan for any calendar quarter*
10 *shall not exceed the interest rate applicable to 90-day United States*
11 *Treasury bills issued during the first week of the calendar quarter*
12 *immediately preceding plus an additional 6%, rounded off to the*
13 *nearest one-quarter of 1% per annum.*

14 A loan contract other than an open-end loan contract may pro-
15 vide for an increase, or may provide for a decrease, or both, in the
16 rate of interest applicable to the loan. No increase during the
17 entire loan term shall result in an interest rate of more than 6%
18 per annum over the rate applicable initially, nor shall the rate be
19 raised more than 3% per annum during any 12-month period. The
20 lender shall not be obligated to decrease the interest rate more
21 than 6% over the term of the loan, nor more than 3% per annum
22 during any 12-month period. If a rate increase is applied to the
23 loan, the lender shall also be obligated to adopt and implement
24 uniform standards for decreasing the rate. If the contract pro-
25 vides for the possibility of an increase or decrease, or both in the
26 rate, that fact shall be clearly described in plain language, in at
27 least 8-point bold face type on the face of the contract. No rate in-
28 crease shall take effect during the first three years of the term of the
29 loan, or thereafter, (a) unless at least 90 days prior to the effective
30 date of the first such increase, or 30 days prior to the effective date
31 of any subsequent increase, a written notice has been mailed or
32 delivered to the borrower that clearly and conspicuously describes
33 such increase, and (b) unless at least 365 days have elapsed without
34 any increase in the rate. No increase during the entire loan shall
35 result in an interest rate of more than 6% per annum over the rate
36 applicable initially, nor shall the rate be raised more than 3% per
37 annum during any 12-month period. Where the loan contract so
38 provides for an increase or decrease in the rate of interest, the pro-
39 vision of R. S. 17:10-13 requiring that no installment be substan-
40 tially greater in amount than any preceding installment shall not
41 apply.

42 An open-end loan contract may provide that the interest rate may
43 be increased or may be decreased, or both, from time to time; pro-
44 vided, however, that no increase in interest shall be effective unless:
45 (a) at least 90 days prior to the effective date of the first such in-
46 crease, or 30 days prior to the effective date of any subsequent in-
47 crease, a written notice has been mailed or delivered to the borrower
48 that clearly and conspicuously describes such change and the in-
49 debtedness to which it applies and states that the incurrence by the
50 borrower or another person authorized by him of any further in-
51 debtedness under the plan to which the agreement relates on or
52 after the effective date of the increase specified in the notice shall
53 constitute acceptance of the increase and (b) either the borrower
54 agrees in writing to the increase or the borrower or another person
55 authorized by him incurs such further indebtedness on or after the

56 effective date of the increase stated in such notice. The provisions
57 of this paragraph permitting an increase in a rate of interest shall
58 not apply in the case of an agreement which expressly prohibits
59 changing of interest rates or which provides limitations on chang-
60 ing of interest rates which are more restrictive than the require-
61 ments of this paragraph. **If the contract provides for the possibil-**
62 **ity of an increase or decrease, or both, in the rate, that fact shall**
63 **be clearly described in plain language, in at least 8-point bold face**
64 **type on the face of the written notice.**

65 **The interest and periodic payments for loans at these rates**
66 **shall be computed from standard tables based on the actuarial**
67 **or annuity method which conforms to the so-called "United States**
68 **Rule of Partial Payments," which provides that interest shall**
69 **be calculated whenever a payment is made and the payment shall be**
70 **first applied to the payment of interest and if it exceeds the interest**
71 **due, the balance is to be applied to diminish principal. If the pay-**
72 **ment is insufficient to pay the entire amount of interest the balance**
73 **of interest due shall not be added to principal, so as to produce**
74 **interest thereon.**

75 No interest shall be paid, deducted, or received in advance.
76 Interest shall not be compounded and shall be computed only on
77 unpaid principal balances. For the purpose of computing interest,
78 all installment payments shall be applied no later than the next day,
79 other than a public holiday, after the date of receipt, and interest
80 shall be charged for the actual number of days elapsed at the daily
81 rate of $1/365$ of the yearly rate.

82 No license shall induce or permit any person nor any husband
83 and wife, jointly or severally, to become obligated, directly or
84 contingently or both, under more than one contract of loan at the
85 same time for the purpose of obtaining a higher rate of interest
86 than would otherwise be permitted by this section. This prohibition
87 shall not apply to any loan made pursuant to any other law of this
88 State.

89 **In addition to the interest herein provided for, no further or other**
90 **charge, or amount whatsoever for any examination, service, broker-**
91 **age, commission, expense, fee, or bonus or other thing or otherwise**
92 **shall be directly or indirectly charged, contracted for, or received,**
93 **except (1) amounts for insurance obtained or provided by the**
94 **licensee in accordance with the provisions of this chapter; and (2)**
95 **on actual sale of the security in foreclosure proceedings or upon**
96 **the entry of judgment. If any interest, consideration or charges in**
97 **excess of those permitted by this chapter are charged, contracted**
98 **for, or received, except as the result of a good faith error, the**

99 contract of loan shall be void and the licensee shall have no right
100 to collect or receive any principal, interest, or charges whatsoever,
101 and the borrower shall be entitled to recover from the lender any
102 such sums paid or returned to the lender by the borrower on ac-
103 count of or in connection with the loan.

1 3. Section 26 of P. L. 1984, c. 171 (C. 17:13-164) is amended to
2 read as follows:

3 26. (New section) a. A credit union may make loans to its mem-
4 bers, evidenced by a written instrument, upon terms and upon any
5 security, including, but not limited to, the endorsement of a note by
6 a surety, comaker, or guarantor, assignment of an interest in real
7 or personal property, or assignment of shares, as the board may
8 provide. The adequacy of any security shall be determined by the
9 credit committee. No loan shall be made to any member when the
10 aggregate amount of all that member's loans outstanding exceeds
11 10% of the credit union's total assets. The board, in its discretion,
12 may fix a lower amount.

13 b. Notwithstanding the provisions of R. S. 31:1-1 to the contrary,
14 a credit union may charge, contract for, and receive interest [in]
15 on loans at a rate or rates agreed to by the credit union and the
16 member, *except as provided in subsection d. of this section.* A credit
17 union may charge late fees and lawful fees paid to any public officer
18 for filing, recording, or releasing a document, and may charge
19 collection fees, not to exceed 20% of the principal balance and
20 interest outstanding, which may be added to the principal balance
21 of any loan placed for collection after default thereon.

22 c. A credit union shall have a lien on the shares, share certificates,
23 deposits, deposit certificates, and accumulated interest or dividends
24 of a member in any individual, joint, or trust account, for any sum
25 past due the credit union from the member or for any loan endorsed
26 by him. The credit union shall have a right of immediate [set-off]
27 setoff with respect to these accounts.

28 d. *Notwithstanding any other provision of law to the contrary, in*
29 *the case of any loan in which a credit card is used to advance funds*
30 *or to purchase goods or services, the rate of interest applicable to*
31 *the loan for any calendar quarter shall not exceed the interest rate*
32 *applicable to 90-day United States Treasury bills issued during the*
33 *first week of the calendar quarter immediately preceding, plus an*
34 *additional 6%, rounded off to the nearest one-quarter of 1% per*
35 *annum.*

1 4. Section 17 of P. L. 1971, c. 409 (C. 17:16C-44.1) is amended to
2 read as follows:

3 17. (a) Notwithstanding any other law to the contrary, a retail
4 seller, sales finance company, banking institution or other holder
5 may charge, receive and collect a time price differential in each
6 billing period on obligations incurred pursuant to any retail charge
7 account, which shall be determined as specified in the terms of the
8 account, subject to the limitations provided herein. Such time price
9 differential for each monthly billing period shall not exceed the
10 amount resulting from applying the periodic rates provided herein
11 to the greater of the following amounts (including unpaid time
12 price differentials):

13 (i) The average daily balance of the account for such billing
14 period, or

15 (ii) The balance of the account at the beginning or end of
16 such billing period.

17 The periodic rate or rates *for any calendar quarter* shall not
18 exceed [an amount agreed to by the retail seller, sales finance
19 company, banking institution, or other holder and the retail
20 buyer] *the interest rate applicable to 90-day United States*
21 *Treasury bills issued during the first week of the calendar*
22 *quarter immediately preceding, plus an additional 6%, rounded*
23 *off to the nearest one-quarter of 1% per annum.*

24 The terms of the retail charge account may provide that the time
25 price differential may be increased or may be decreased or both
26 from time to time; provided, however, that no increase shall be
27 effective unless: (1) at least 90 days prior to the effective date of the
28 first such increase, or 30 days prior to the effective date of any
29 subsequent increase, a written notice has been mailed or delivered
30 to the retail buyer that clearly and conspicuously describes such
31 change and the indebtedness to which it applies and states that the
32 incurrence by the retail buyer or another person authorized by him
33 of any further indebtedness under the plan to which the agreement
34 relates on or after the effective date of the increase specified in the
35 notice shall constitute acceptance of the increase and [(b)] (2)
36 either the retail buyer agrees in writing to the increase or the retail
37 buyer or another person authorized by him incurs such further in-
38 debtedness on or after the effective date of the increase stated in the
39 notice. The provisions of this paragraph permitting an increase in
40 the time price differential shall not apply in the case of an agree-
41 ment which expressly prohibits changing of the time price differen-
42 tial or which provides limitations on changing of the time price dif-
43 ferential which are more restrictive than the requirements of this
44 paragraph. If the terms of the retail charge account provide for the
45 possibility of an increase or decrease, or both, in the time price

46 differential, that fact shall be clearly described in plain language,
47 in at least 8-point bold face type on the face of the written notice.
48 Notwithstanding the foregoing limitation, if the terms of the
49 account so provide, the time price differential may be computed on
50 the median amount within a specified range. Such time price differ-
51 ential for each monthly billing period shall not exceed the amount
52 resulting from applying the respective periodic rates specified
53 above to the median amount within the specified range in which the
54 greater of the amounts specified in (i) and (ii) is included; pro-
55 vided, subject to the classifications and differentiations as may
56 reasonably be established by the retail seller, sales finance company,
57 banking institution or other holder, the same time price differential
58 is charged on all balances within the specified range and provided
59 further that the time price differential determined by applying the
60 respective periodic rates specified above to the median amount
61 within the range does not exceed by more than 8% the amount of
62 the time price differential determined by applying the respective
63 periodic rates specified above to the lowest amount in the range.
64 (b) If the billing period is not monthly, the maximum periodic
65 rate shall be that rate which bears the same relation to the respec-
66 tive periodic rates per month specified above as the number of days
67 in the billing period bears to 30.

68 (c) Notwithstanding the limitation provided in (a) above, for
69 any monthly billing period in which a time price differential may be
70 charged pursuant to the terms of the account a minimum time price
71 differential of not more than \$0.50 may be charged; if the billing
72 period is not monthly, a minimum time price differential may be
73 charged in such amount which bears the same relation to \$0.50 as
74 the number of days in the billing period bears to 30.

1 5. Section 48 of P. L. 1963, c. 144 (C. 17:12B-48) is amended to
2 read as follows:

3 48. Specific powers. Without limiting the generality of the fore-
4 going, every association shall have power to:

5 (1) Have succession by its corporate name for the period lim-
6 ited in its charter or certificate of incorporation, and when no
7 period is limited, perpetually.

8 (2) Sue and be sued in any court.

9 (3) Adopt and use a corporate seal and alter the same.

10 (4) Purchase and otherwise acquire, hold, mortgage, pledge,
11 lease, exchange, sell, convey and otherwise dispose of any real
12 and personal property, necessary or incidental to its operations
13 and consistent with its powers and purposes.

14 (5) Insure its members' accounts with the Federal Savings and
15 Loan Insurance Corporation, and comply with conditions necessary
16 to obtain and maintain such insurance.

17 (6) Become a member of or stockholder in a Federal Home Loan
18 Bank and to that end to comply with all conditions of membership
19 therein.

20 (7) Act as agent for the United States or the State of New
21 Jersey or any instrumentality of either of them, when designated
22 for that purpose, and perform such reasonable duties as such agent
23 as may be required of it.

24 (8) Join any cooperative league organized for the purpose of
25 protecting and promoting the welfare of associations and their
26 members and comply with all conditions of membership therein.

27 (9) Borrow money from any source in or out of the State, on
28 the note, bond and mortgage or other obligation of the association
29 upon such terms and conditions as the board may from time to
30 time prescribe by resolution adopted by at least a majority of
31 all the members of the board and duly recorded on the minutes and
32 to pledge, assign or transfer mortgages, owned by the association
33 and the obligations secured by such mortgages, together with the
34 shares, if any, pledged as collateral security therefor, or any real or
35 other personal property, as security for the repayment of money
36 so borrowed. No association shall borrow money if by doing so
37 the aggregate of its indebtedness for borrowed money other than
38 to the Federal Home Loan Bank will exceed 20% of its capital,
39 except with the approval of the commissioner.

40 (10) (Deleted by amendment.)

41 (11) Require an advance payment of interest for a period of
42 one month on any loan; and accept advance payments of interest,
43 if made at the option of the debtor, for any period on any loan.
44 None of such payments shall be deemed usurious.

45 (12) Where shares are issued, charge an admission fee, not to
46 exceed \$0.25 per share, which shall include the cost of membership
47 or share certificate and account book.

48 (13) Impose charges upon a member for failure to make any
49 payment to the association when due, but only as provided in this
50 paragraph. Where the association issues installment share ac-
51 counts it may impose such charge upon any member holding such
52 an account or any borrower upon a sinking fund mortgage not in
53 excess of 1% a month upon the amount in arrears, except for the
54 first month's arrearage or the amount by which such first month's
55 arrearage may be increased by subsequent arrearage, in which case
56 a charge not in excess of 5% may be imposed. Such charges shall

58 deducted from any amount actually paid by a member upon an
59 account nor shall the total of any such charges against any account
60 in any fiscal year exceed the amount that may be charged for fail-
61 ure to make any payments for a 6-month period nor shall any
62 charge for default be made on a charge for default. Otherwise
63 an association may impose a charge for failure to make any re-
64 quired payment to it when due upon any loan or contract for the
65 resale of real estate to a member, not to exceed 4% of the amount
66 of each payment in arrears, but no more than one such charge may
67 be made with respect to any one payment in arrears. An associa-
68 tion may impose a reasonable service charge against any member
69 who tenders to such association, for collection or as payment, a
70 check or other instrument of any type which subsequently is not
71 honored by the institution or person upon which such check or
72 other instrument is drawn. None of such charges shall be deemed
73 usurious.

74 (14) Compute interest upon any direct reduction loan, on desig-
75 nated payment dates, and add the same to the unpaid balance of
76 such loan.

77 (15) Act as agent for any person, where such agency will further
78 the interests of the association and its members, subject to such
79 limitations as may be prescribed by the commissioner.

80 (16) Upon application to and approval by the commissioner, to
81 act as custodian or trustee within the contemplation of the Federal
82 Self-Employed Individuals Tax Retirement Act of 1962, *Pub. L.*
83 *87-792, 76 Stat. 809 (15 U. S. C. 37 et al.)*, as amended and supple-
84 mented, and the Employee Retirement Income Security Act of 1974,
85 *Pub. L. 93-406, 88 Stat. 829 (5 U. S. C. 5108 et al.)*, as amended and
86 supplemented, and as custodian, trustee or manager of any such
87 investment fund the authorized investments of which include, but
88 need not be limited to, savings accounts or real estate loans, and the
89 beneficial interests in which may be represented by transferable
90 shares or certificates. Associations exercising the powers autho-
91 rized by this subsection shall segregate all funds held in such
92 fiduciary capacities from the general assets of the association and
93 shall keep a separate set of books and records showing in detail all
94 transactions made under authority of this subsection. If individual
95 records are kept for each self-employed individual's retirement
96 plan and each such investment fund, then all such funds held in such
97 fiduciary capacities by an association may be commingled for appro-
98 priate purposes of investment. No funds held in such fiduciary
99 capacities shall be used by an association in the conduct of its

100 business: however, such funds may be invested in savings accounts
101 of the association in the event that the custodial, trust or other plan
102 does not prohibit such investment. In granting or refusing the
103 association's application the commissioner shall take into considera-
104 tion the investment policies, amount, type and adequacy of reserves,
105 fidelity bonds and any legally required deposits of the applicant and
106 other pertinent facts and circumstances.

107 (17) Upon compliance with subsection (5) of this section, accept
108 from its members accounts to be repaid upon such terms, not in-
109 consistent with this act, as are approved by the Commissioner of
110 Banking, by regulation or otherwise, provided that no account shall
111 exceed the limitations established by section 78 of P. L. 1963, c. 144
112 (C. 17:12B-78), and provided further that no account shall be
113 accepted or issued in the name of any corporation, association or
114 partnership or in the name of any individual for use in trade
115 or business. An association issuing such accounts may honor
116 demands for withdrawal of such accounts in the form of negotiable
117 checks, drafts or orders in the form of electronic fund transfers
118 and may become a member of a clearing facility and satisfy rea-
119 sonable conditions required for its qualification and pay reasonable
120 expenses therefor. Such accounts may be either interest-bearing
121 or noninterest-bearing; provided, however, that the payment of
122 interest on such accounts be permitted by federal law. An associa-
123 tion accepting accounts pursuant to this subsection shall, at all
124 times, maintain reserves against such accounts as shall be pre-
125 scribed in regulations issued by the commissioner in accordance
126 with the "Administrative Procedure Act," P. L. 1968, c. 410 (C.
127 52:14B-1 et seq.), but such reserves shall be equal in nature and
128 amount to those required of savings banks in this State against
129 similar accounts. Such reserves shall be maintained in cash or
130 deposits in one or more reserve depositories as authorized by the
131 Commissioner of Banking. Regulations of the commissioner may
132 also provide that associations issuing such type of accounts main-
133 tain a general reserve account, federal insurance reserve account
134 and undivided profits of specified minimum amounts and provide
135 for minimum standards of office facilities in connection therewith.
136 An insured association may impose a reasonable service charge for
137 providing and maintaining such accounts for the benefit of its
138 members.

139 (18) Issue credit cards, extend credit in connection therewith,
140 and otherwise engage in or participate in credit card operations,
141 subject to such regulations as the commissioner may prescribe.
142 Any such regulations shall be in substantial conformity with similar

143 rules and regulations of the Federal Home Loan Bank Board. *The*
144 *interest rate applicable to any extension of credit made pursuant*
145 *to this subsection for any calendar quarter shall not exceed the*
146 *interest rate applicable to 90-day United States Treasury bills*
147 *issued during the calendar quarter immediately preceding, plus an*
148 *additional 6%, rounded off to the nearest one-quarter of 1% per*
149 *annum.*

150 (19) (a) Apply to the commissioner for permission to act as
151 trustee, executor, administrator, guardian, or in any other fiduciary
152 capacity in which federal savings and loan associations doing
153 business in this State are permitted to act. Associations exercising
154 any or all of the powers enumerated in this section shall segregate
155 all assets held in any fiduciary capacity from the general assets
156 of the association and shall keep a separate set of books and
157 records showing in proper detail all transactions engaged in under
158 authority of this section. No association shall receive in its trust
159 department deposits of current funds subject to check or the deposit
160 of checks, drafts, bills of exchange, or other items for collection
161 or exchange purposes. Funds deposited or held in trust by the
162 association awaiting investment shall be carried in a separate
163 account and shall not be used by the association in the conduct of
164 its business unless it shall first set aside in the trust department
165 United States bonds or other securities approved by the commis-
166 sioner. In the event of the failure of such association, the owners
167 of the funds held in trust for investment shall have a lien on the
168 bonds or other securities so set apart, in addition to their claim
169 against the estate of the association. Whenever the laws of this
170 State require corporations acting in a fiduciary capacity to deposit
171 securities with the State authorities for the protection of private or
172 court trusts, associations so acting shall be required to make similar
173 deposits and securities so deposited shall be held for the protection
174 of private or court trusts, as provided by New Jersey law. Associa-
175 tions in such cases shall not be required to execute the bond usually
176 required of individuals if New Jersey corporations under similar
177 circumstances are exempt from this requirement. Associations
178 shall have power to execute such bond when so required by the laws
179 of New Jersey. In any case in which the laws of this State require
180 that a corporation acting as trustee, executor, administrator, or
181 in any capacity specified in this section shall take an oath or make
182 an affidavit, any officer, as defined in section 65 of P. L. 1963, c. 144
183 (C. 17:12B-65), of such association may take the necessary oath or
184 execute the necessary affidavit. It shall be unlawful for any associa-
185 tion to lend any officer, director, or employee any funds held in
186 trust under the powers conferred by this section. Any officer,

187 director, or employee making such loan, or to whom such loan is
188 made, may be fined not more than \$5,000.00, or imprisoned not more
189 than five years, or may be both fined and imprisoned, in the discre-
190 tion of the court. In passing upon applications for permission to
191 exercise the powers enumerated in this section, the commissioner
192 may take into consideration the amount of capital and surplus of the
193 applying association, whether or not such capital and surplus is
194 sufficient under the circumstances of the case, the needs of the com-
195 munity to be served, and any other facts and circumstances that
196 seem to him proper, and may grant or refuse the application
197 accordingly, except that approval shall not be granted to any as-
198 sociation having a capital and surplus less than the capital and
199 surplus required by New Jersey law of State banks, trust com-
200 panies, and corporations exercising such powers.

201 (b) Any association desiring to surrender its right to exercise
202 the powers granted under this section, in order to relieve itself of
203 the necessity of complying with the requirements of this section,
204 or to have returned to it any securities which it may have deposited
205 with the State authorities for the protection of private or court
206 trusts, or for any other purpose, may file with the commissioner a
207 certified copy of a resolution of its board of directors signifying
208 such desire. Upon receipt of such resolution, the commissioner,
209 after satisfying himself that such association has been relieved in
210 accordance with State law of all duties as trustee, executor,
211 administrator, guardian or other fiduciary, under court, private or
212 other appointments previously accepted under authority of this
213 section, may, in its discretion, issue to such association a certificate
214 certifying that such association is no longer authorized to exercise
215 the powers granted by this section. Upon the issuance of such a
216 certificate by the commissioner, such association (i) shall no longer
217 be subject to the provisions of this section or the regulations of the
218 commissioner made pursuant thereto, (ii) shall be entitled to have
219 returned to it any securities which it may have deposited with the
220 State authorities for the protection of private or court trusts, and
221 (iii) shall not exercise thereafter any of the powers granted by
222 this section without first applying for and obtaining approval to
223 exercise such powers pursuant to the provisions of this section.

224 (c) The commissioner is authorized and empowered to promul-
225 gate such regulations as he may deem necessary to enforce com-
226 pliance with the provisions of this section and the proper exercise
227 of the trust powers granted by this section. Any such regulations
228 shall be in substantial conformity with similar rules and regula-
229 tions of the Federal Home Loan Bank Board.

230 (20) In accordance with rules and regulations promulgated by
231 the commissioner, issue and sell directly to subscribers or through
232 underwriters mutual capital certificates. Such certificates shall
233 constitute part of the general reserve and net worth of the issuing
234 association. Such certificates—

235 (a) Shall be subordinate to all savings accounts, savings certifi-
236 cates, and debt obligations;

237 (b) Shall constitute a claim in liquidation on the general re-
238 serves, surplus, and undivided profits of the association remaining
239 after the payment in full of all savings accounts, savings certifi-
240 cates, and debt obligations;

241 (c) Shall be entitled to the payment of dividends; and

242 (d) May have a fixed or variable dividend rate.

243 The commissioner is authorized and empowered to promulgate
244 such regulations as he may deem necessary with respect to the
245 powers granted by this section. Any such regulations shall be in
246 substantial conformity with similar rules and regulations of the
247 Federal Home Loan Bank Board. The commissioner shall provide
248 in his regulations for charging losses to the mutual capital certifi-
249 cates, reserves, and other net worth accounts.

250 (21) If authorized by regulation of the commissioner, exercise
251 any power, right, benefit, or privilege permitted to federal associa-
252 tions, provided that such power, right, benefit or privilege is not
253 specifically prohibited by law, which regulation shall be in sub-
254 stantial conformity with similar rules and regulations of the Fed-
255 eral Home Loan Bank Board; and exercise any power, right, bene-
256 fit or privilege under this section, modified by regulation of the
257 commissioner, where the Federal Home Loan Bank Board has, by
258 regulation, modified that power, right, benefit or privilege with
259 respect to federal associations.

1 6. Section 4 of P. L. 1985, c. 81 (C. 17:3B-7) is amended to read
2 as follows:

3 4. *a.* Interest. Notwithstanding the provisions of R. S. 31:1-1, a
4 lender may, subject to the criminal usury provisions of N. J. S.
5 2C:21-19, charge and collect interest under a revolving credit plan
6 on outstanding unpaid indebtedness in the borrower's account
7 under the plan at daily, weekly, monthly, annual or other periodic
8 percentage rates as the agreement governing the plan provides or
9 as established in the manner provided in the agreement governing
10 the plan, *except as provided in subsection b. of this section.* If the
11 applicable periodic percentage rate under the agreement governing
12 the plan is other than daily, interest may be calculated on an amount
13 not in excess of the average of outstanding unpaid indebtedness for

14 the applicable billing period, determined by dividing the total of the
 15 amounts of outstanding unpaid indebtedness for each day in the
 16 applicable billing period by the number of days in the billing period.
 17 If the applicable periodic percentage rate under the agreement
 18 governing the plan is monthly, a billing period shall be deemed to be
 19 a month or monthly if the last day of each billing period is on the
 20 same day of each month or does not vary by more than four days
 21 therefrom.

22 *b. Notwithstanding the provisions of subsection a. of this section,*
 23 *in the case of any revolving credit plan for which a credit card is*
 24 *used to advance money to the borrower or to purchase goods or*
 25 *services, the interest rate applicable to the revolving credit plan*
 26 *for any calendar quarter shall not exceed the interest rate appli-*
 27 *cable to 90-day United States Treasury bills issued during the first*
 28 *week of the calendar quarter immediately preceding, plus an addi-*
 29 *tional 6%, rounded off to the nearest one-quarter of 1% per annum.*

30 *c.* Nothing in this section shall be construed to authorize the
 31 charging of interest on the amount of any accrued interest remain-
 32 ing unpaid on the account.

1 7. This act shall take effect 30 days after enactment.

STATEMENT

This bill would establish an interest rate ceiling on credit card loans. The ceiling applicable to a loan or advance of funds would be 6% over the interest rate on United States Treasury bills for the first week of the calendar quarter which immediately precedes the loan or advance of funds. The bill would apply to bank credit cards, credit cards issued by small loan companies and credit unions, and credit cards issued by lenders under the Retail Installment Sales Act, P. L. 1971, c. 409 (C. 17:16C-1 et seq.), such as department stores and other retailers.

BANKING AND FINANCIAL INSTITUTIONS

Establishes an interest ceiling on credit cards of up to 6% over the United States Treasury Bill interest rate.

TABLE OF CONTENTS

Page

Robert M. Jaworski
Deputy Commissioner
New Jersey Department of Banking

1

Senator John H. Dorsey
District 25

20

Senator Paul Contillo
District 38

27

John P. Thurber
Assistant Deputy Public Advocate
New Jersey Department of the Public Advocate

34

Senator Peter P. Garibaldi
District 18

43

Dr. William C. Dunkleberg
Professor of Economics
Purdue University

55

Edward J. Goldberg, Chairman
New Jersey Retail Merchants Association and
Vice President of Consumer Affairs, Bambergers

55

Donald S. Nowicki
Senior Lending Officer and
Senior Vice President
United Counties Trust Company

95

Marleen Zakrzewski, Vice President
Credit Card Department
Trust Company of New Jersey

100

Alexander Kish, Jr., Vice President
First Jersey National Bank

104

James L. Billmeyer
Executive Vice President
Horizon Bank

109

Robert J. Farnon
Senior Vice President
Midlantic National Bank/North

111

TABLE OF CONTENTS (continued)

	<u>Page</u>
Ferdinand Horn Manager of Card Operations United Jersey Bank	113
Peter J. Graziano, Vice President New Jersey National Bank, Trenton	115
John W. Coote Senior Vice President Citizens First National Bank of New Jersey	116
Neil J. Fogarty Consumers League of New Jersey	121
Richard K. Weinroth, Esq. Citizens Against Penalty Surcharges	127
Rene Borstad, Director Burlington County Division of Consumer Affairs	129
Elgie Holstein Associate Director Bankcard Holders of America	131
Alfred H. Griffith New Jersey Bankers Association	143
Samuel J. Damiano, President New Jersey Council of Savings Institutions	146
James C. Morford, Vice President New Jersey State Chamber of Commerce	148
APPENDIX:	
Statement and attachment submitted by the New Jersey Department of the Public Advocate	1x
Statement submitted by Senator Peter P. Garibaldi	28x

TABLE OF CONTENTS (continued)

	<u>Page</u>
Statement submitted by Edward J. Goldberg	31x
Statement submitted by Alexander Kish, Jr.	45x
Statement submitted by James L. Billmeyer	53x
Statement submitted by Robert J. Farnon	59x
Statement submitted by Ferdinand Horn	63x
Statement submitted by Peter J. Graziano	72x
Statement submitted by John W. Coote	79x
Statement and exhibits submitted by Neil J. Fogarty	88x
Statement submitted by Elgie Holstein	106x
Statement submitted by Samuel J. Damiano	110x
Letter, with attachment, to Senator Raymond Lesniak from Congressman James J. Howard	113x
Letter to Senator Raymond Lesniak from Michaelene Loughlin, Esq. School of Law Seton Hall University	117x
Statement submitted by Gail Chester, Esq. Legal Services of New Jersey, Inc.	118x

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SENATOR RAYMOND LESNIAK (Chairman): This is a public hearing of the Senate Labor, Industry and Professions Committee on legislative proposals concerning credit cards, specifically: S-1160, sponsored by Senator Feldman; S-1560, sponsored by Senator Dorsey; S-1561, sponsored by Senator Connors; S-1562, sponsored by Senator Garibaldi; S-1563, sponsored by Senator Gagliano; and S-1632, sponsored by Senator Contillo.

Initially, I want to thank everyone for coming out this morning, with the weather being so bad.

The first person to testify will be from the Department of Banking, Robert Jaworski. Mr. Jaworski, did you know you were going to be first?

DEPUTY COMM. ROBERT M. JAWORSKI: No.

SENATOR LESNIAK: Well, you are.

Let me just ask anyone who has prepared testimony, to please bring it up to the table here before you testify.

DEPUTY COMMISSIONER JAWORSKI: Senators, I appreciate this opportunity to appear before the members of this Committee to present the views of the Department of Banking on credit card interest rate ceilings and the effects such restrictions would have on the availability of credit to New Jersey consumers. My name is Robert Jaworski. I am the Deputy Commissioner in the Department of Banking responsible for supervising the Department's Consumer Complaints Program, as well as for overseeing our legal and economic research staff.

The Department welcomes this legislative inquiry into a matter of considerable public concern -- a concern genuinely shared by the Department -- and hopes that we can contribute the suitable information needed to devise a fair and sensible solution for all concerned -- the Legislature, the industry, and the consumer.

The Department is statutorily charged with the responsibility of reporting, on an annual basis, on the existence of competition among consumer credit lenders, and to

determine whether consumer credit is readily available to the consumer. The Department conducts this report as a result of the elimination of price restrictions on consumer lending products in 1981, which left only the State criminal usury ceiling of 30% in effect.

At that time, eliminating rate caps was necessary because the availability of consumer credit for items from houses to retail goods had virtually evaporated in New Jersey, because lenders were unable to support the costs of providing credit. Thus, many consumers were simply unable to obtain credit for their personal needs.

That is why the issue of capping credit card interest rates must be carefully examined to ensure that the availability of convenient and flexible consumer credit -- a convenience overwhelmingly exercised by New Jersey consumers -- is not correspondingly reduced.

I caution you to look closely at the credit climate in states where rates have been restricted, such as Arkansas and Washington. These states are repeatedly used as examples of rate control, but you should look beyond the limits because you will discover that credit availability in both states is extremely restrictive. The situation there serves to remind us that consumers do not benefit when credit is inaccessible, strict credit eligibility standards are in effect, and credit sources are limited.

Arkansas is a good example of the negative effects of restrictions. As Jill Considine, Superintendent of New York Banks, described in testimony on the subject of the capped rates, "There is no free ride in Arkansas for consumers who use their card to make a purchase. Interest accrues from date of posting the purchase, instead of at the date of billing as in most states. Moreover, the attention those credit card rates have received nationally has led to a flood of unsolicited applications from outside the state. As a result, the credit

standards have been tightened, since those banks cannot prudently expand the total amount of credit availability for credit cards."

Since New Jersey phased in deregulation in 1981, the Department has been monitoring interest rate activity on seven types of consumer loan products. These products range from unsecured personal loans to new and used auto loans, home equity, and small business loans. We are required to address several considerations in making our report on the credit market since ceilings were lifted, namely, whether adequate competition exists among lenders, whether interest rates reasonably reflect market conditions, and whether the elimination of ceilings on interest rates has increased the availability of credit to New Jersey borrowers.

From the Department's standpoint, we have consistently found no cause for the reinstatement of price conditions or ceilings. Although we agree that the cost of credit card services is high in relation to other types of loans, we have not seen evidence that the prices associated with bank credit card services are significantly greater in relation to their cost basis.

It is not my intention here to recite the costs factored into providing credit card services, because I expect that the industry will present those figures to you. My point here is to emphasize that credit availability has expanded in New Jersey because of increased competition among lenders and the elimination of artificial restraints.

For the past five years, the Department has documented that consumer credit is readily available to New Jerseyans and that the interest rates being charged on most consumer credit loans in the State do follow a national pattern. Our 1985 report -- due to be released at the end of this month -- finds that most consumer loan rates registered progressive declines, thereby reflecting market conditions. Moreover, the report

indicates that in virtually every category of consumer loan products, lending activity by our financial institutions has increased due to consumer demand, competition, and our strong economy.

One hundred and eighteen banks of a total of 129 State and federally chartered institutions responded to the Department's current survey. Of these, slightly more than 20%, or 22 institutions, issue or service credit cards, a number which has remained largely unchanged since rate ceilings were lifted in 1981. Despite the small number of issuers, however, credit-worthy individuals are able to obtain credit cards from issuing banks, whether or not they have other financial dealings with the bank.

Our 1985 survey data also reveals that two of the 22 institutions did drop their rates from 18% to 15% and 16.9% to 15.9%, respectively, thereby paralleling a national pattern that may have been triggered by a combination of declining interest rates and less restrictive credit availability. The average commercial bank rate on credit card purchases at year-end 1985 was 18.08%, as compared to 18.45% in December, 1984, a steady, if slight, decline since an initial peak of over 18.5% in early 1983. These figures, of course, do not include the credit card volume or the rates of the many retailers and out-of-state banks that also successfully compete in the New Jersey marketplace.

The fact is, despite the relatively high price of maintaining credit card balances past monthly payment dates, national figures show that credit card use and credit card balances are running at an all time high. This indicates that many consumers find the convenience of such flexible credit to be worth the price. Such a conclusion is further suggested by the experience of our own Consumer Complaints Section which, despite the heavy public and media attention the issue has received to date, has received few, if any, complaints on credit card interest rates.

These and other factors form the basis of our reluctance to endorse a return to price controls for consumer credit services. At the same time, we share the concern of the members of this Committee on the apparent rigidity of those prices in the face of recent national declines in interest rates generally. We agree that in such circumstances it is legitimate to inquire whether the price is reasonably related to the costs of providing such services, and we welcome the testimony of industry representatives who are here to respond to those concerns.

For our part, as regulators we note that the Federal Reserve Board and others have pointed out that credit card costs are, indeed, higher and they have concluded that, at least at this point, the anticipated negative effect on credit availability and on economic prosperity would outweigh any assumed benefit from capping rates.

In summary, we commend the initiative and public spirit of the Legislature in raising this timely question, and we offer our full cooperation in the course of this hearing.

SENATOR LESNIAK: Senator O'Connor, any questions?

SENATOR O'CONNOR: No questions.

SENATOR LESNIAK: Senator Jackman?

SENATOR JACKMAN: No questions.

SENATOR LESNIAK: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes, I have some questions. First of all, how long have you been with the Department?

DEPUTY COMMISSIONER JAWORSKI: I have been with the Department since October of last year. Before that, I was in the Attorney General's office.

SENATOR DiFRANCESCO: Is there a ceiling, at all, on any kind of credit card interest rate? Is there any ceiling?

DEPUTY COMMISSIONER JAWORSKI: There is the criminal usury ceiling of 30%.

SENATOR DiFRANCESCO: There is a criminal usury ceiling of 30%?

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR DiFRANCESCO: For all kinds of-- That includes any kind of loan, right?

DEPUTY COMMISSIONER JAWORSKI: Well, that includes all the types of loans that are under consideration in any of the bills we are considering. It includes retail installment loans; it includes credit card loans; it includes cash advance loans.

SENATOR DiFRANCESCO: Is there a mortgage ceiling rate?

DEPUTY COMMISSIONER JAWORSKI: There is, I believe, but I am not exactly sure what that rate is. It's a civil rate lower than the 30% rate.

SENATOR DiFRANCESCO: Does it distinguish between first mortgages and second mortgages, would you know?

DEPUTY COMMISSIONER JAWORSKI: I believe it does. I think the--

SENATOR DiFRANCESCO: In other words, would there be a higher ceiling rate for second mortgages than first, or should I be asking these questions, maybe, of one of the other witnesses? Do you want me to defer on any questions like this?

DEPUTY COMMISSIONER JAWORSKI: Well, on this particular question, I will defer. The civil usury limits are fairly complex, and I am not quite up on all of the rates.

SENATOR DiFRANCESCO: Well, I'll wait until we get to Witness No. 13, I guess.

What about the notice-- You know, in your testimony you spoke about-- Let me try to find it. (referring to written statement) You indicated about consumer complaints -- that there were very few consumer complaints about credit card interest rates. First of all, let me ask you this: If you had a high volume of consumer complaints, would you act?

DEPUTY COMMISSIONER JAWORSKI: Well, that would certainly raise our concern and we would, in fact, take action. When we see a high volume of consumer complaints, we

try to find out what is causing it, and try to resolve the situation.

SENATOR DiFRANCESCO: In your own personal opinion -- or does the Department have an opinion as to whether it is-- Are you surprised that you don't get consumer complaints about credit card interest rates?

DEPUTY COMMISSIONER JAWORSKI: I can't answer for the Department, but personally, with the media attention this issue has raised -- and I think it was mentioned in my testimony -- I am a little surprised that we don't get more.

SENATOR DiFRANCESCO: Yeah, so am I. What is the highest rate being charged on a credit card of any kind in New Jersey, do you know -- whether it be retail, bank, whatever?

DEPUTY COMMISSIONER JAWORSKI: I don't have our survey, but I believe some of the retail charge accounts might go into the low 20s. Most of the credit cards-- I don't believe there is any bank credit card rate that is over 20. I think they are all below 20.

SENATOR DiFRANCESCO: Was there a ceiling at one time on credit card rates?

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR DiFRANCESCO: What was the ceiling?

DEPUTY COMMISSIONER JAWORSKI: It was 18%, I think, in 19-- It may have been a graduated ceiling. I think it was 18% for a certain balance, and perhaps 15% for over that. And that was prior to 1981.

SENATOR DiFRANCESCO: So, you think it was as high as 18% even then -- prior to 1981, when the law was changed?

DEPUTY COMMISSIONER JAWORSKI: Yes, yes.

SENATOR DiFRANCESCO: Is it safe to say that basically the highest rates today are generally retail merchants?

DEPUTY COMMISSIONER JAWORSKI: Yes, I believe that is a safe statement.

SENATOR DiFRANCESCO: Whereas commercial banks are a little lower?

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR DiFRANCESCO: Based on your survey?

DEPUTY COMMISSIONER JAWORSKI: Yes. Well, the survey was only sent to banks. The survey did not involve retailers at all.

SENATOR DiFRANCESCO: Oh, okay.

DEPUTY COMMISSIONER JAWORSKI: So, the thought that retailers are--

SENATOR DiFRANCESCO: So, your statistic of 18.08% is based upon a commercial bank survey?

DEPUTY COMMISSIONER JAWORSKI: Yes, it is a commercial bank survey. My information from retail is just what I have read from other studies, which seem to indicate that they are slightly higher.

SENATOR DiFRANCESCO: Is there a point at which the Department might take action if the interest rates were to go up on credit cards? Is there some magic number at which you think you would act?

DEPUTY COMMISSIONER JAWORSKI: I don't think so. I think, really, what this Committee is looking at, and what we mentioned in the testimony, is that we would have to take a close look at the relationship between bank costs for providing these services and the interest rate they were charging, and perhaps other factors that might enter into it. If it were caused by the bank costs increasing for one reason or another, you could see it as a legitimate rise in rates. If not, then we might be prepared to take action, as we are at present.

SENATOR DiFRANCESCO: Well, in 1981, do you have any idea what the prime rate was?

DEPUTY COMMISSIONER JAWORSKI: No, but I know it was a lot higher than it is today.

SENATOR DiFRANCESCO: A lot higher than it is today?

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR DiFRANCESCO: Do you think -- and I think you intimated this in your testimony -- that the lifting of the

ceiling on credit card interest rates generated more available credit?

DEPUTY COMMISSIONER JAWORSKI: Yes. When credit card interest rates were allowed to expand past the 18% level, banks were more willing to expand the playing field to make credit more available to persons to whom they might not have extended credit, or in greater amounts, and also to increase services to their card holders, because they could then recoup those costs through the higher interest rates. The increase in availability of credit is documented in, I believe, each of the periodic reports which have followed the lifting of the cap in 1981.

SENATOR DiFRANCESCO: Your survey indicates that two of the 22 institutions dropped their rates from 18% to 15% and 16.9% to 15.9%, which is only 1% in one instance, and 3% in the other. When did that happen, do you happen to know?

DEPUTY COMMISSIONER JAWORSKI: I don't happen to know, but I believe that was between the 1984 survey and the 1985 survey. So, in this past--

SENATOR DiFRANCESCO: When was the survey taken?

DEPUTY COMMISSIONER JAWORSKI: In this past year.

SENATOR DiFRANCESCO: The beginning of 1985, or, you know, the end of 1985?

DEPUTY COMMISSIONER JAWORSKI: The end.

SENATOR DiFRANCESCO: So, the survey toward the end of 1985 indicated that some time during 1985, two institutions dropped their rates?

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR DiFRANCESCO: Do you know of any since that date that have dropped their rates -- since you took the survey?

DEPUTY COMMISSIONER JAWORSKI: I do not.

SENATOR DiFRANCESCO: Do you have any recommendations with regard to a ceiling? If the Legislature were to decide that there should be a ceiling, does the Department of Banking have any recommendations?

DEPUTY COMMISSIONER JAWORSKI: As to the formula which you might use? No, we have no recommendations because we have not focused on that at this point.

SENATOR DiFRANCESCO: Do you have any suggestions, or-- Maybe I shouldn't be suggesting it, but have you thought about perhaps more notice to the public, or trying to develop regulations that would make the public aware of the distinction in rates between various institutions?

DEPUTY COMMISSIONER JAWORSKI: We have thought about it; we are thinking about it. We are looking at some of the things that New York State has done. For instance, they have -- with a lot more resources than we have available -- done a couple of things which we believe are worthy of consideration. They publish a quarterly report called "Consumer's Shopping Guide," I think, which indicates the various bank rates, including credit card rates for all the reporting banks. It is a voluntary program, and they get fairly good cooperation from their institutions, as I can tell from the report. We think that information would be very helpful to the consumer, to know which banks offer what rates, and what other features are in the card. I mean, rate is only one of the features that make people buy cards. The way a bank administers the program, the yearly fee, whether there is a grace period-- All of those considerations would play a part, and how you use it.

SENATOR DiFRANCESCO: Let's talk about two of those things. The yearly fee-- Do most commercial banks charge a yearly fee now?

DEPUTY COMMISSIONER JAWORSKI: Again, I don't have the survey in front of me, but I believe they do, and I think it is typically \$15.

SENATOR DiFRANCESCO: Secondly, do you recall anything about the grace periods? It has been my impression -- I may be wrong now -- that in New Jersey, at least, there has traditionally been a grace period. Am I correct when I say that?

DEPUTY COMMISSIONER JAWORSKI: I believe all banks in New Jersey have a grace period.

SENATOR DiFRANCESCO: Whereas in New York, some institutions -- or most institutions, I think -- charge from the day of posting, or the day of--

DEPUTY COMMISSIONER JAWORSKI: The day of posting, yeah. I mentioned in my testimony what Commissioner Considine said in New York. She mentioned a bank in Arkansas that Senator D'Amato referred to. He held a card up on TV to say, "You can get a low rate on this." That particular bank had no grace period. That makes a significant difference in the rate you can charge.

SENATOR DiFRANCESCO: So, if there were any kind of program to make the public aware of interest rates, it ought to include some other provisions. That's what you're saying?

DEPUTY COMMISSIONER JAWORSKI: Yes, the other features. That is one of the things -- getting back to your other question -- New York State has done. They have also done some community outreach programs, where they would go into a community, into a meeting hall or something, and discuss with interested consumers whatever banking issues they wished to discuss. If this were one of them, they could explain the differing rates that banks charge and the differing features. They also have a hot line. We are looking into all of those things to see whether they are feasible, whether we think they would help the consumer, and perhaps through natural competition, force some of those rates down a little lower.

SENATOR DiFRANCESCO: Okay. I have no other questions.

SENATOR LESNIAK: Senator Jackman? You said you had a question.

SENATOR JACKMAN: The only question I wanted to check with you is on capping -- any type of recommendation on the capping of credit cards. It would seem to me that the average person, when he takes a credit card, would know what the

percentage was when he applied for that card. Doesn't he know it?

DEPUTY COMMISSIONER JAWORSKI: I do.

SENATOR JACKMAN: Wouldn't you think he would know it, too?

DEPUTY COMMISSIONER JAWORSKI: I believe when-- At some point along the line, I think most consumers know what the rate is. What perhaps they don't know -- and what I was getting at with Senator DiFrancesco-- They may not know the range of services that are provided by other institutions. I imagine some people accept the first card solicitation that is sent to them, maybe back when they graduated college, or something, and they won't change. They won't, perhaps, be concerned with the rates. They won't even know there are other rates available.

SENATOR JACKMAN: You know, it seems to me that when you get a credit card and you pay it on time, you pay no interest.

DEPUTY COMMISSIONER JAWORSKI: If you pay it within the grace period, yes, you pay no interest, at least at present in New Jersey, yes.

SENATOR JACKMAN: Yeah. As far as the public not knowing, I can take any newspaper today, and I'll guarantee you there are 20 advertisements in that newspaper from banks and credit people telling you what the credit rating is for mortgages, and all the way down the line -- automobile loans, and the whole bit.

I am frightened when anybody starts to tell me they are going to cap something. When you cap it -- it may not be available when you cap. You take an arbitrary figure -- let's hypothetically say 16% -- and you cap at 16%, some banks will just take their money and lend it elsewhere, where they will get 17% and 18%, or 19%.

DEPUTY COMMISSIONER JAWORSKI: As I said in my testimony, that is the Department's primary concern. We believe that has, in fact, been shown by the experience of states that presently have limits, or have reimposed limits, Arkansas being one of them. What happens is, the banks in those states-- I mean, the giving of their services is perhaps not as profitable as it once was under those restrictions, and they cut back on-- They will heighten credit standards, so that the people who really need credit can no longer get it, or they will lower limits, and those people are then forced into perhaps higher types of borrowing -- higher rate types of borrowing. For instance, they will have to go to finance companies, small loan lenders, retailers, and things like that.

SENATOR JACKMAN: Off the top of my head, would you say that about a million people in the State of New Jersey would have credit cards -- three-quarters of a million?

DEPUTY COMMISSIONER JAWORSKI: I am not sure exactly what the figure is, but I think it is a pretty high percentage.

SENATOR JACKMAN: Would you say it would be-- We have seven and a half million people. Would you say about three-quarters of a million people have credit cards?

DEPUTY COMMISSIONER JAWORSKI: I'd say at least.

SENATOR JACKMAN: Okay. How many complaints from the three-quarters of a million people has the banking industry received on the basis of rates?

SENATOR DiFRANCESCO: You mean the Department of Banking.

SENATOR JACKMAN: The Department of Banking, of course.

DEPUTY COMMISSIONER JAWORSKI: The Department of Banking, yeah. I can only give you my own recollections. We don't have figures for that. We haven't been able to break it out of our--

SENATOR JACKMAN: No, but--

DEPUTY COMMISSIONER JAWORSKI: --figures, but my recollection is no more than a half a dozen.

SENATOR JACKMAN: A half a dozen out of -- and I am being facetious when I say 750,000 people have credit cards. A half a dozen complaints. You've got a hell of a Department. You don't have too many worries.

DEPUTY COMMISSIONER JAWORSKI: The great bulk of the complaints we get dealing with credit cards are concerned with unsolicited cards and billing problems.

SENATOR JACKMAN: Okay. Thank you.

DEPUTY COMMISSIONER JAWORSKI: You're welcome.

SENATOR LESNIAK: Senator DiFrancesco?

SENATOR DiFRANCESCO: You mentioned that we have a criminal usury statute which says that 30% is-- Over 30%, obviously you are a criminal -- if you charge more than 30%. Do you think that is ridiculous? Should we eliminate that? Should we abolish that statute? Has the Department even given that any thought, or would you rather I ask that of the Public Advocate?

DEPUTY COMMISSIONER JAWORSKI: Well, I haven't given that any thought. That statute has been on the books for a long time.

SENATOR DiFRANCESCO: In light of what everybody is saying today, I am not sure we should have a criminal statute.

DEPUTY COMMISSIONER JAWORSKI: Yeah. At this point, it is not relevant until interest rates--

SENATOR LESNIAK: Senator DiFrancesco, are you going to introduce a bill to eliminate the usury right?

SENATOR DiFRANCESCO: No. Actually, I found I am a cosponsor of one of these. (laughter) The other thing I want to put out-- It is not a question, but something I want to say. I think the two times that I have ever complained about the method of handling credit cards and interest rates-- I don't know if it was the rate at the time; I think it was the grace period. I wrote to the retail establishment, not to the Department of Banking. Not everybody in the State of New

Jersey — forgive me, and maybe I shouldn't say this — knows there is a Department of Banking, for one thing. You know, people just don't think about that generally. So, there could have been a lot of complaints, but addressed in different ways to different kinds of people.

SENATOR LESNIAK: How many complaints have you received in your legislative office?

SENATOR DiFRANCESCO: I don't know. I'll check though. I haven't received any recently, but I'm sure I will start to now, with all of the publicity about interest rates — credit card interest rates. But, I haven't received, to my recollection, specific complaints about credit card interest rates.

SENATOR LESNIAK: All you have to do is refer them to the banks that are at 15% and 16%.

SENATOR DiFRANCESCO: Well, he didn't put the names out. I didn't want to ask him that question. (laughter)

DEPUTY COMMISSIONER JAWORSKI: We didn't want to tell them.

SENATOR DiFRANCESCO: Thanks.

SENATOR LESNIAK: Any more questions? (no response) I have a few questions. First of all, could you submit to the Committee, for the record, the Department's regulations and any Federal regulations dealing with credit cards — whether there be disclosure, or any other requirement? (no response) And, do you know if any of the states in the new Interstate Banking Region which New Jersey has recently joined have any caps on their credit card interest rates?

DEPUTY COMMISSIONER JAWORSKI: I don't know the answer to that, but I can provide that to the Committee.

SENATOR LESNIAK: Well, does Pennsylvania have a cap?

DEPUTY COMMISSIONER JAWORSKI: I don't believe it does. I know Delaware does not. Is Delaware in the region? (no response)

SENATOR LESNIAK: Indiana, Illinois, Michigan, Wisconsin, West-- Do any of those states have caps?

DEPUTY COMMISSIONER JAWORSKI: I don't know. I do know that most states in the country do not have--

SENATOR LESNIAK: Okay.

DEPUTY COMMISSIONER JAWORSKI: --ceilings, but I can provide that information to you.

SENATOR LESNIAK: Okay. Well, could New Jersey banks, with the new Interstate Banking Region, direct their credit opportunities elsewhere within that region, to other states that do not have caps, if we impose a cap?

DEPUTY COMMISSIONER JAWORSKI: Absolutely. I believe the present situation in New Jersey is-- I don't know the figures, but the New Jersey resident card holders-- I think, by far, the minority of those card holders hold cards issued by New Jersey banks.

SENATOR LESNIAK: Most of them hold cards issued by out-of-state banks.

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR LESNIAK: Primarily New York banks?

DEPUTY COMMISSIONER JAWORSKI: I wouldn't even say that. I mean, they go--

SENATOR LESNIAK: Massachusetts, Maryland?

DEPUTY COMMISSIONER JAWORSKI: Chicago.

SENATOR LESNIAK: Chicago, okay.

DEPUTY COMMISSIONER JAWORSKI: Any of the big money centers which are aggressive national marketers.

SENATOR LESNIAK: Okay. Do any of those institutions have loan offices in the State of New Jersey?

DEPUTY COMMISSIONER JAWORSKI: Some do; some don't.

SENATOR LESNIAK: Okay. Those loan offices deal with all kinds of loans, or just credit card loans?

DEPUTY COMMISSIONER JAWORSKI: Those loan offices usually deal with only first mortgage loans and commercial loans.

SENATOR LESNIAK: Okay. Do you think we could prohibit the location of those loan offices in this State if those institutions did not adhere to our credit card cap, if we had one? In other words, is there a reasonable and rational nexus between those loan offices, if they are not dealing with credit card loan applications?

DEPUTY COMMISSIONER JAWORSKI: I think that question is more a legal question.

SENATOR LESNIAK: It is a very legal question; exactly

DEPUTY COMMISSIONER JAWORSKI: It's a very legal question. My own opinion is, there are serious constitutional problems with that kind of an approach.

SENATOR LESNIAK: May we have a legal opinion from staff — Dale — or from the Department on that particular issue? My impression is that we could not, but I wouldn't want to rely on that.

DEPUTY COMMISSIONER JAWORSKI: Also, that would only— Another problem I see with that is, again, it would only meet part of the problem, even if it was successful. It would only meet the problem of those banks which have loan production offices here. Also, it wouldn't address the issue of nationally chartered banks and federally chartered banks, where, again, it is a legal question whether or not a State-imposed cap would affect them.

SENATOR LESNIAK: So, basically, what you're saying is that a cap can do one of three things: It could encourage New Jersey money to be lent to consumers outside of the State of New Jersey, thereby drying up credit resources for New Jersey residents. It could encourage New Jersey residents to utilize out-of-state credit cards, thereby giving those profits to out-of-state institutions and taking those out of the State. Is that correct?

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR LESNIAK: And thirdly, it could drive people who would see their credit availability dry up into finance companies, where they would be charged even higher rates. Is that correct?

DEPUTY COMMISSIONER JAWORSKI: Yes.

SENATOR LESNIAK: Okay. I have no further questions. Senator Cardinale, would you like to ask any questions?

SENATOR CARDINALE: Yes. Thank you, Senator.

SENATOR LESNIAK: What happened to your tan? You're losing it, Senator.

SENATOR CARDINALE: It's fading quickly. I notice you've gotten some.

Having just joined the hearing, perhaps this question has already been asked. If it has--

SENATOR LESNIAK: We'll let you know.

SENATOR CARDINALE: Can you give us any rationale for why, with interest rates dropping, from the Department's perspective, to the extent that they have been dropping in every other area, those interest rates with respect to credit card purchases, in some instances -- not in all instances, but in some instances -- have been maintained at the same rates, essentially, that they were when interest rates were much, much higher?

DEPUTY COMMISSIONER JAWORSKI: Well, I think there are a couple of reasons. The first is that unlike virtually all other loans-- I mean, the reason why most loan rates have come down is directly attributable to the decrease in the cost of funds for the institution. Those costs, as everybody knows, have come down significantly in the last three or four years. I have seen figures that indicate-- Like, for a mortgage loan, for instance, 90% of the cost to the bank for providing a mortgage loan is the actual cost of funds. And, for other types of lending it can go as high as 75%.

In the credit card field, it is a very different circumstance. The cost of funds is but one component of the bank's costs, and not necessarily the primary component. The figures I have seen indicate perhaps as low as 30% of the cost to the bank. I expect the industry will supply this Committee with the industry figures for these things, and I don't profess to be an expert on those figures. But, it is fairly clear that the costs are not the same-- It is not the same magnitude-- The factor is not the same as it is with other loans, so a decrease would not have the same effect.

The second reason, I believe, is that you have to look back to the history of credit card interest rates and the lifting of the State ceilings. When we had a ceiling, and banks -- and most of their credit card industries were in their infancies, they wanted to start up these businesses, but the cap on the interest rate and the high interest rates out in the field were putting them into a squeeze, where it really wasn't that profitable.

Their response was not to raise the interest rate -- which they couldn't do -- but to decrease the availability of credit. This is what we saw during the last round of hearings that resulted in the lifting of the cap in '81. A decrease in the availability, a decrease in limits-- Sometimes they wouldn't issue new cards to anyone. They kept a lid on their losses -- or profits which were at an unacceptably low level.

When the cap was lifted, and the interest rates correspondingly -- through circumstances -- began to decline, rather than lower the interest rates, the banks increased the availability of credit, increased limits, and increased services. But, they have gotten to the point now where-- At least there was a statement made by Emmett Rice, who is one of the members of the Board of Governors of the Federal Reserve System, that he thinks banks may now be poised at the position where they may be ready to begin lowering rates, and perhaps the slight decrease in rates we have seen is evidence of that.

SENATOR CARDINALE: Does your Department keep a handle on what is happening in the various areas of credit card interest rates; that is, department stores-- Is that repetitive? (affirmative response from unidentified member of Committee). Oh, I'm sorry. I will read the other answers. Thank you.

SENATOR LESNIAK: Thank you, Senator Cardinale. Thank you Mr. Jaworski.

DEPUTY COMMISSIONER JAWORSKI: Thank you very much.

SENATOR LESNIAK: Senator Contillo is here, and then Senator Dorsey. (response from someone in the audience) Senator Dorsey was here first? I saw Senator Contillo-- You guys choose. Why don't you both come up at the same time?

SENATOR JOHN H. DORSEY: Senator Lesniak, members of the Committee: I would like to thank Senator Lesniak for calling this public hearing today. I am here to speak not solely on behalf of myself, but on behalf of the Republican leadership in the Senate, which has taken considerable interest in this matter for some period of time.

Quite frankly, from our standpoint, we have difficulty understanding why, at this time, when interest rates are plummeting, credit card issuers can get away with charging what we consider today to be rather outrageous interest rates. Just this week, the rate on three-month Treasury bills dropped below 6% for the first time in nearly a decade. The prime lending rate now stands at 9%, yet New Jersey consumers are paying as high as 21% interest, and higher, on some credit card purchases. These rates are totally out of line with what the market is presently compelling and what more responsible lenders are, in fact, charging in the market.

I hope this public hearing is the first meaningful step in bringing down interest rates to responsible levels. While we understand that retail credit is understandably the most expensive form of credit because it involves greater risk

and no collateral, we cannot accept the current rates that are being charged by some credit card issuers.

For months, we have been trying to get companies that issue credit cards to provide us with detailed information on their operations so we could understand why their interest rates have not dropped to reflect the declining cost of borrowing money in our economy. These companies have not responded to us.

I hope this Committee delves into this issue thoroughly. We need to know what interest rates credit card issuers are paying to borrow money. We need to know details about their operating expenses. We need to know how much of the money they lend to consumers is never collected. We need to know how much of the money they lend is paid back within the 30-day period.

Companies that issue credit cards owe us justification for the interest rates they charge.

Back in 1981, when it was virtually impossible to get a mortgage, car loan, or credit card because of the skyrocketing cost of money, we in the Legislature decided to eliminate all interest rate ceilings on credit. We were assured by credit lenders that the interest rates would be dictated by market conditions. Well, for the most part, lenders have lived up to that agreement. Mortgage rates -- as Senator Jackman has pointed out -- have come down, so have interest rates on car loans and home improvement loans. However, credit card interest rates have not come down in the same proportion to those other types of loans which we hear most about and are discussed most frequently.

SENATOR LESNIAK: Senator Dorsey, do you feel that they should come down in the same proportion?

SENATOR DORSEY: Yes, I do.

SENATOR LESNIAK: Are their costs, as a proportion of the cost of money they are lending out, the same ratio as the other loans?

SENATOR DORSEY: I accept your hypothesis that their costs in terms of credit card loans are higher than, for instance, on a mortgage. The collateral is different, etc., but I do--

SENATOR LESNIAK: Therefore, shouldn't there be a difference with--

SENATOR DORSEY: Oh, there should be a difference in the rate, but we say-- If you use the term proportionately-- We believe that their interest rates should, in fact, come down proportionately to other interest rates from the high which they reached some time in 1982. We have found-- For instance, we had a specific chart prepared last fall when we first studied this problem. We had some companies at that time which were charging as high as 24%. Most of our commercial banks, at the same time, in connection with their credit card rates, were charging as much as one-half less than the highest interest rates being charged by credit card issuers.

We understand that the interest rates for credit cards will never be the same as they are on mortgages, but we feel that we have in part been deceived, or in part the credit card issuers have not lived up to their part of the bargain that credit card interest rates would, in fact, reflect what was going on in the market. That is so, and is demonstrated by the fact that those rates have not come down as other rates have with a great number of credit card issuers.

SENATOR LESNIAK: There is one bank charging approximately 15% and another 16%. Are consumers prohibited from going to those banks for those credit cards?

SENATOR DORSEY: I think that is a very interesting point, and I would like to go back to the question that Senator Jackman asked before, because I think it is related. There is no question today that there is now, as there was not in 1982, a great deal of competition in the money markets for lenders to be able to lend money. We see a great concentration of

advertisement and competition between mortgage lenders and those which deal with car loans. I do not believe it is fair to say that we see the same kind of competition in connection with those who, in essence, loan money on the basis of credit cards. I do not find in the newspapers that I read-- I do find banks putting advertisements in, in which they seek to compare their rates on mortgages and car loans. You don't see that, to the best of my knowledge, in connection with credit cards issuers and borrowings based upon credit cards.

So, I don't think you have the same situation. I think it is somewhat of a different feel. I agree that it has to be treated differently. The collateral is different; the security is different; and the interest rate will also be different. But we think what should be the same is that the interest rate should, in fact, decline to be reflective of what is, in fact, occurring in the market, and the market has changed very greatly from that which it was in 1982.

SENATOR LESNIAK: Does a cap increase or decrease competition?

SENATOR DORSEY: I don't think capping necessarily increases or decreases competition in this particular market. I believe all of the bills which have been presented here are not flat caps, as we have in connection with local municipal expenditures. They are, in fact, a floating cap that would respond to both an increase or a decrease in some basic interest rate, whether it be the Treasury bills, or some other Federal thing.

So, I don't think it decreases competition at all. I think what would increase competition is one of the proposals we made some time ago -- and which is contained in some of these bills -- and that would be to reveal -- to make public -- a listing of all of the interest rates being charged by credit card issuers in some kind of a public manner, so that the people -- the consumers -- could actually see what the rates were, in order to create some type of competition.

Let me just read the part of my statement that relates to that question. It says: "Consumers are beginning to stand up to credit card providers who charge excessive rates. Brooklyn Congressman Charles Schumer put together a list of banks across the country that charge low interest rates on credit cards. When WCBS Radio offered this list to its listeners, the demand was overwhelming.

"Nationwide, 91 million Americans with credit cards are paying a staggering \$6 billion in interest a year. The price of this convenience has gotten out of hand. Consumers are now turning to us for some relief."

SENATOR LESNIAK: Has anyone introduced that proposal before the Legislature?

SENATOR DORSEY: Yes. Our proposal -- and the proposal is not only my own but that of Senator Connors, Senator Garibaldi, and Senator Gagliano -- included a provision that initially -- initially -- we would not specifically set a cap, but we would require all credit card issuers doing business in the State of New Jersey to submit their credit card interest rates, at that point in time, to the Commissioner of Banking, and make those lists available, particularly to the media, so that we could, in fact, have an opportunity for the media to disseminate that information to create some competition. We would prefer--

SENATOR LESNIAK: That's Senator Connors' bill?

SENATOR DORSEY: I think that is included in all of the four Republican bills. It is in my bill, as well as in Senator Connors' bill.

SENATOR LESNIAK: I don't refer to bills as Republican bills, Senator, or Democratic bills.

SENATOR DORSEY: Okay. I think it is in Senator Connors' bill, Senator Garibaldi's bill, and my own bill -- that particular proposal -- to go initially on what amounts to a voluntary proposal.

SENATOR LESNIAK: No, no, I'm talking about the disclosure.

SENATOR DORSEY: Yes, the disclosure. Yes.

SENATOR LESNIAK: It's only in Senator Connors' bill, right?

SENATOR DORSEY: It is also in my bill.

MR. DAVIS (Committee Aide): It is only in Senator Connors' bill.

SENATOR LESNIAK: Sorry, Senator Dorsey.

SENATOR DORSEY: I think you're wrong.

SENATOR LESNIAK: I read your bill.

SENATOR DORSEY: No, you did not. (laughter) My bill— Now, wait a minute, Dale, we are going to have to discuss this. My bill will provide that if interest rates charged by any issuers of credit cards in New Jersey exceed the monthly index of long-term buying yields plus 8% six months after the passage of this act, the Commissioner of Banking will set that figure as a cap. So, there is, in my bill— But, fine, if it's Senator Connors' bill, fine.

Our first thrust in the matter was, in fact, to deal with it without a cap. We would be hopeful that in some reasonable period of time, that through our making some demand for information, and that information being given primarily to the Department of Banking, and hopefully then disseminated, that we could, in fact, inject into a system where there is not necessarily a great deal of competition at the moment, a certain competitive factor.

We do not mean to suggest that we think that every issuer of a credit card is, in fact, at this point in time, charging relatively unfair interest rates. That is not so, because our study disclosed some substantial differences in what, in fact, was being charged by credit card issuers. I think the credit card falls into a different category than mortgages and car loans, which people concentrate on for a

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period of time and really shop for. I think with their credit cards they tend to go back to the issuer because of the product, and I think they are entitled to have a certain amount of competition, and entitled to be protected.

All of the bills, in essence, deal with different formulas, and seek to reach -- whether it is Senator Contillo's bill, or any of the bills put forth by my side of the aisle -- seek to develop some kind of a formula in order to create some competition and/or to protect the consumer from unreasonable rates.

We are not concerned any longer with what the right formula is, or exactly what the rate should, in fact, be. We leave it to this Committee, which has greater resources than we do, to attempt to develop what the right formula is. We simply think the point in time has come where there is a need for the Legislature to act, whether it is first by some kind of voluntary action, and then subsequently, I think, the threat, or the possibility of a cap must always be there, so that there will be generated some competition in this particular field.

SENATOR LESNIAK: Senator, one last question: Does it bother you that the major beneficiaries of the proposals to cap interest rates would be the out-of-state banks, consumers in other states, and the finance companies which charge higher rates in this State?

SENATOR DORSEY: I don't understand how--

SENATOR LESNIAK: Okay. Let's start-- Your bill doesn't affect most of the credit cards, in fact, that are issued in this State, isn't that correct?

SENATOR DORSEY: No, I don't understand that. I understand that we would effectuate, let us say, a cap that would be effective as to all credit purchasers' purchases made in this State, but all those who conduct credit card businesses in this State. I think we have jurisdiction on them, even though they may initially be domiciled in other states, once they do business in the State of New Jersey.

SENATOR LESNIAK: Do you think you can do that legally?

SENATOR DORSEY: Yes.

SENATOR LESNIAK: Well, we are getting a legal opinion on that. I seriously doubt that. Thank you, Senator Dorsey.

SENATOR DORSEY: Thank you very much.

SENATOR LESNIAK: Senator Contillo. I'll ask you the same questions, but I will let you pontificate as well.

SENATOR PAUL CONTILLO: Thank you, Senator. Thank you for having this hearing in the first place. I didn't think there was any question, or that there would be any controversy surrounding this bill. I just thought it would be a question of which bill you were going to implement. As a result--

SENATOR LESNIAK: Senator Contillo, if you can convince me that these proposals are actually going to benefit the consumer in the State of New Jersey, then you can be sure that this Committee-- If you can convince all the members of this Committee, or a majority of them, that your bill or the other bills will benefit the consumer in the State of New Jersey, we will report out the bill.

SENATOR CONTILLO: I know that, and that is why I took the time to scratch a few notes on the back of this envelope. It doesn't matter to me -- or certainly, I'm sure, to the Committee -- whether it be a Republican or a Democratic bill, which side of the aisle, as Senator Dorsey referred to it. I, too, would agree with him that while my bill calls for 6% over the T-bill rate, whatever cap, whatever formula this Committee in its infinite wisdom and knowledge would arrive at, would be fine with me.

I just want to add that, about three or four months ago, Senator Dorsey suggested that we allow the banks to voluntarily respond to competition and drop the rates. And, of course, that hasn't happened, and it is not going to happen until the State acts.

Just let me make a few disoriented comments to you. Many states, to my surprise -- and New Jersey is not one of them -- have various rates. In other words, if we are talking about charging a person 21% because the cost of the operation is so high, it may be possible -- and they talk about \$100 and \$200 and \$300 average balances-- But, if a person owes \$2000 and \$3000 and \$4000 -- major furniture purchases and that -- many other states have seen the light and have a split rate. In other words, 18% up to \$800; then after \$800, it may drop down to 12%. Of course, there are states now where the maximum is 12%. Those people still have credit cards, and it works very well.

Credit cards, the way I see it, do not stand on their own as an economic venture, any more than the advertising that the retail merchant might do. My first credit card was a no-interest credit card. I received credit cards, when I first obtained them years ago, and there was no interest attached to those credit cards. They simply did whatever they could to get you into the stores.

SENATOR DiFRANCESCO: Were they plastic in those days? (laughter)

SENATOR CONTILLO: You didn't have plastic in those days, Senator, as you well know. You know, in fact, to this day, if you walk through the malls-- Maybe it was because I lived in Paramus, of course, that we were a special target for the retail merchants, but at the present time, if you walk through Sears & Roebuck, you will have pretty girls offering you gifts if you are willing to take a credit card. You can get a map, or a glass, or a bag, or whatever it is. They have--

SENATOR LESNIAK: On 42nd Street they do similar.

SENATOR CONTILLO: For credit cards, Senator?

SENATOR JACKMAN: They accept credit cards.

SENATOR O'CONNOR: This is going to make an interesting record.

SENATOR LESNIAK: Senator, I'm sorry to distract you.

SENATOR CONTILLO: I have a few more notes, and then I'll finish, all right?

My point is, the stores, to this day, will do just about anything to get a person to take a credit card. That is their interest -- to get you into the store. It is simply a charade to tell you that they have an economic balance sheet that says credit cards are not turning a profit. It is part of the entire operation of the store, a very important part of it, and they will do anything. They can't justify the costs of operating that system on the basis of it standing by itself. They want credit cards; they want people to come into the stores, and they will do anything it takes to get them into the stores.

The problem we have is the 21% rate, who it affects, and how it affects them. That is what you want to hear about, so let me--

SENATOR LESNIAK: Well, basically, your testimony is focusing on something that we really haven't focused on this morning, and that is the interest rates -- the credit cards that are issued by the retail--

SENATOR CONTILLO: Merchants.

SENATOR LESNIAK: --merchant establishments.

SENATOR CONTILLO: This is included in what we are talking about. It is part of the spectrum. I didn't want to duplicate what Senator Dorsey spoke about, so I thought I would go into additional areas--

SENATOR LESNIAK: Sure, fine.

SENATOR CONTILLO: --because I endorse most of what he said.

SENATOR LESNIAK: We really haven't spoken much about that, so I wish you would. I feel that you have particular expertise, coming from the Bergen County area.

SENATOR CONTILLO: Well, it's even more expertise, because I have a large family of daughters, and I was-- (laughter)

SENATOR JACKMAN: They've all got plastic.

SENATOR CONTILLO: Yes, they all have plastic. One is a college student, and I was astounded to find out how she was able to obtain a credit card. One is a beautician, who got well over her head into debt. That is when I first saw 21% appear on the card, and I was quite shocked at it. So, yeah, unfortunately, I have expertise in that area.

But, most of the time, that 21% does not affect anyone at this table, because you do what I do with your credit cards. You pay it off, and you pay it off immediately. So, we, in effect, are paying nothing. I don't pay any interest on my credit cards, but a lot of people, people of modest incomes, are forced to use those credit cards. They are the ones who pay that 21%, while the rest of us, probably, at this table, do not use their credit cards in that sense, but pay them off immediately.

SENATOR LESNIAK: Aren't we, in effect, being subsidized by the other card users then?

SENATOR CONTILLO: Absolutely. That is the point I'm making to you, that the wrong people are paying this 21%.

SENATOR JACKMAN: Do you mean I gotta pay now? (laughter)

SENATOR CONTILLO: Well, I think that goes back to the question of, what is a credit card? They are just describing a system to you. They are trying to make it stand as a separate division, and it is simply not so. It's a marketing tool. It is one of the devices they use and, unfortunately, you and I will pay our credit card immediately, and will pay no interest on it. But, a person of modest means, who wants to buy, maybe, a refrigerator, or a piece of furniture, will go out and buy it that way, and pay 21% interest on it.

So, I have two suggestions for you. One, that you cap it, as I suggested in the bill and, incorporated within that, if I can't get that done, consider a dual tier, one that reduces the amount of interest a person must pay once it is over that \$800 if, indeed, you swallow the line that has been given to you that there is a basic cost for them running the system. But, there could be no justification for ever charging a person of modest means 21% on a large purchase.

SENATOR LESNIAK: Just one question, Senator. Are people forced to go into these stores that charge 21%? Are they forced to use their credit cards?

SENATOR CONTILLO: Well, if you want to shop in Bamberger's and you don't have the cash, Bamberger's will charge you the 21%, and they will not allow you to use any other credit card. So, there is a stifling of competition there.

SENATOR LESNIAK: Bamberger's is the only store that sells items that people can buy in your area?

SENATOR CONTILLO: No, no. I'm saying that some of the stores at least are willing to allow you to use some other credit card.

SENATOR LESNIAK: Why can't people walk right across the mall, or the street, to another store where they don't have to pay 21%?

SENATOR CONTILLO: Well, they can, but I'm not sure anyone charges less. I think the whole State is in the range of 19% to 21%, Senator. What I'm saying is, we would like to bring all of that down. If people have the cash, they won't pay anything, or if they are maybe at a little better social or financial level, they will pay the card off early.

SENATOR LESNIAK: And if you bring it down, a lot of those people who are using credit cards will be knocked off, because they will be credit risks and it won't be profitable to issue them credit cards.

SENATOR CONTILLO: Well, that might be in their best interest. If they really shouldn't have a credit card, maybe they really shouldn't have it.

SENATOR LESNIAK: Are we going to prevent them from going to the finance company then to borrow the money to make the purchase?

SENATOR CONTILLO: Right now, the credit cards are given out in a very-- I don't see any checks involved. You know, there is an encouragement; there is a marketing effort even to sell credit cards again. Now there is a new card coming out, and I haven't quite figured out what it does. It is called Discover. I can't quite figure out what that one does yet.

SENATOR LESNIAK: You can use that to get born or to be buried, and anything in between. (laughter)

SENATOR CONTILLO: I am prepared to answer any questions.

SENATOR LESNIAK: Senator Cardinale?

SENATOR CARDINALE: You indicated it is your belief that the people who pay their cards off right away -- pay these loans off right away and thereby pay no interest, are actually being subsidized by the others. But, isn't the reverse also true? Isn't the credit experience from the people who pay off immediately added to the total overall credit experience, and isn't that making credit available to other people? Isn't that what is really in operation here today?

SENATOR CONTILLO: Well, I am only going by testimony I have read on the retail merchants, that they have to have this 21% to cover their costs of operation. When I pay my bill without adding interest to it, they have gotten nothing from me to add into that cost. So, their entire cost of operation really has to come from -- in their own words-- They said -- it's interesting -- we can go for-- Technically it is possible to go to 59 days without paying interest. Most people assume

it's 30, which I do. "Between 30% and 50% of all retail credit card people pay off the entire balance without paying interest on it. That means that the other half -- the less affluent half -- are really paying the entire freight."

SENATOR LESNIAK: Does the cap proposal do anything about that?

SENATOR CONTILLO: Yeah, it will cut down from 21% to 13% the amount those people have to pay.

SENATOR LESNIAK: Does the cap proposal do anything about the fact that the less affluent people will be subsidizing those people who pay off their bills without paying any interest?

SENATOR CONTILLO: Well, I haven't said they are subsidizing us, because I don't consider the credit card operation as a separate entity in a department store. I consider it as---

SENATOR LESNIAK: You, as an individual, are getting an interest-free loan. Someone is paying for that, right?

SENATOR CONTILLO: It is an interest-free loan, or it is an encouragement to get you to purchase, because the person-- May I finish, Senator? You raised your finger. Do you want me to stop?

SENATOR LESNIAK: No, no.

SENATOR CONTILLO: The person who has the credit card-- The average person who pays off without interest is the same person who will make larger purchases, simply because he has a larger amount of money to spend and is more affluent. So, he is really the person the department store wants shopping in the store. They go to great lengths to get you into the store, to have you shop, and they are not interested in getting the interest on you, I don't think.

So, that is the person they want. I don't know who is subsidizing who because the subsidy really ends up in the price of the product you wear or use.

SENATOR LESNIAK: I'm sorry for interrupting.

SENATOR CARDINALE: Senator, without unduly impacting the Chair-- Maybe I'll waste less time by just saying to Senator Contillo, I have always understood the cost factors involved in a loan to be composed of two major categories -- the loss experience being one of the major categories, and the administrative costs being the other major category and, while your remarks may be very well directed toward the fact that the administrative costs -- that factor -- are primarily being borne by the people who do not pay it off, the other factor -- loss experience -- is certainly impacted by those people who pay off their loans in a quick fashion and, therefore, there is no loss experience with respect to that whole group.

SENATOR LESNIAK: So, that's a balance.

SENATOR CARDINALE: I think perhaps we can elicit from some of the other witnesses what the ratio is in these costs, and I would not ask you that question. I don't expect that you would have that, but some of the other witnesses-- Perhaps we should add that to the list of things we will ask of those witnesses.

SENATOR LESNIAK: Okay. Any other questions? (no response) Senator, thank you very much for raising this issue. We will deal with it.

SENATOR CONTILLO: Thank you for giving us the opportunity to air it.

SENATOR LESNIAK: The Public Advocate, or a representative thereof, John Thurber. John?

J O H N P. T H U R B E R: Mr. Chairman, members of the Committee: My name is John Thurber. I am an Assistant Deputy Public Advocate with the Department of the Public Advocate. Assistant Commissioner Raveson regrets he is unable to appear before you today due to his illness, and he has asked me to deliver his testimony to you, if that is all right.

Thank you for providing the Department of the Public Advocate with the opportunity to appear before you today to share our strong concerns regarding the compelling need to take legislative action to lower credit card interest rates. In our opinion, the high rates of interest currently being imposed on New Jersey consumers highlight the need to reinstitute the controls over credit card lending that were legislatively removed in 1981. The promise of interest rate deregulation — that increased competition would benefit consumers -- has not materialized.

SENATOR LESNIAK: May I beg your indulgence and ask you to summarize the testimony, rather than read it, because we do have a large witness list? It will go into the record. The Senators on this Committee love to ask questions — to solicit answers to questions that are in their minds — so if you could give us a summary of your testimony, then we will draw out the information we need, and will enter your statement into the record.

MR. THURBER: Fine, I will attempt to do so. As the other witnesses before this Committee have testified, market rates of interest have dropped dramatically over the past four or five years. The discount rate, the prime rate, have both dropped significantly. At the same time, consumer credit rates have not dropped in the same way. New Jersey credit card holders are well aware of this fact.

The Public Advocate has just completed a survey of the New Jersey banks — both Federal and State-chartered — which issue credit cards. We, in fact, found 58 such banks, savings banks, and savings and loans that issue credit cards. The average rate they charged was over 18.4%.

SENATOR LESNIAK: Is that the effective rate?

MR. THURBER: The annual percentage rate.

SENATOR LESNIAK: Is that the effective rate?

MR. THURBER: Yes.

SENATOR JACKMAN: It goes from 18--

SENATOR LESNIAK: No, no, no, no, no. Let's at least know what we are talking about. Is that the effective rate? Does that include a 30-day grace period, or a 60-day grace period? Is that the rate on the card?

MR. THURBER: That is the rate charged against balances.

SENATOR LESNIAK: Okay, so that is not the effective rate. The effective rate is lower.

MR. THURBER: The effective rate on balances, yeah.

SENATOR LESNIAK: The effective interest rate on that consumer loan is lower than that figure. Is that correct?

MR. THURBER: I am not prepared to say, because that would also-- You have to include--

SENATOR LESNIAK: Well, if I have a grace period that I don't pay on -- whether it be 30 days, or 59 days if I purchase one day after my bill comes out -- then the actual interest rate I'm paying is less than the interest rate that is on the balance.

MR. THURBER: However, the current practice by, I believe, every bank that we surveyed, was to have no grace period if you carry over a balance from month to month. That is a practice that has changed in the last four or five years, at least by a number of banks.

SENATOR LESNIAK: Okay.

MR. THURBER: So, once you fail to pay off your entire balance, you no longer gain the benefit of any grace period.

SENATOR LESNIAK: On that balance?

MR. THURBER: On all balances.

SENATOR LESNIAK: On any purchase?

MR. THURBER: Exactly. In addition, if we are to talk about effective rates, we need to factor in the annual fee as well and, of course, have to add in the charges made against retailers, which consumers have to pick up.

SENATOR LESNIAK: Well, that is why I asked, is that figure the average effective rate? The answer is no.

MR. THURBER: This is strictly the rate they quote to us as being the rate they charge against consumers. So, it would be significantly higher than 18.4%, if you include in the annual fee and the charges against retailers, which are between 1% and 5%.

SENATOR LESNIAK: How do you base that? Do you know how many of those charge a service fee, what that service fee is, and what is significantly-- What do you call significant? I am interested in how you arrived at your conclusions, whether it is a factual basis. Do you have a list? Do you have all of those figures for us?

MR. THURBER: At the back of the testimony, we have appended that.

SENATOR LESNIAK: And, can those figures be calculated?

MR. THURBER: The difficulty in some of the disclosure proposals that are being made is that it is virtually impossible to calculate what is in the mortgage market, for example, known as the annual percentage rate -- APR -- that is quoted in the newspaper advertisements for car loans, and so on, because consumer practices vary. Some people--

SENATOR LESNIAK: So, you can't calculate it.

MR. THURBER: You can't calculate--

SENATOR LESNIAK: So, you don't know whether it is significantly higher or not?

MR. THURBER: We know it is higher and, again, significantly, because you have to include these other costs, some of which consumers never actually see because, again, retailers-- The fees that retailers are paying are included in the prices of the goods the consumers buy. As you know, bank credit card operations not only charge interest rates on balances and annual fees, but gain a significant proportion of the revenues from the fees they charge retailers every time the

credit card is used. Every time I use a Visa Card or a MasterCard to make a purchase, between 1% and 5% of that purchase is a fee that goes to the bank card operation.

So, it is not clear to us that consumers who pay off their credit card balances each month are, in fact, subsidized by those who don't, because there are all these other sources of revenue for banks -- bank credit card issuers.

SENATOR LESNIAK: I hate to belabor the point, but to the extent that they are not paying interest, they are subsidized by someone.

MR. THURBER: The difficulty is that the information that would be necessary to make that determination has not been available to anybody outside the industry. It's possible that-- In fact, the only thing that interest rate charges go to subsidize are those balances that are carried over month to month, and the rest of the operation is paid for out of the annual fees and the retailer charges. We just don't have that information. It is not available outside of the industry.

SENATOR JACKMAN: Do you have the interest rates that are now being paid as of 1986 by the banks?

MR. THURBER: As of the first weeks of April, yes. At the back of my testimony is the listing.

SENATOR JACKMAN: At the back of your testimony? The reason I mention that is, I notice that in the banking industry, they give us up to 1984, and you've got 1986.

MR. THURBER: Yes, '86, as of just a couple of weeks ago -- or last week.

SENATOR JACKMAN: You're more up-to-date than they are.

MR. THURBER: Well, we had somebody make a lot of phone calls.

SENATOR JACKMAN: What?

MR. THURBER: We had somebody make a lot of phone calls.

SENATOR JACKMAN: To who, the banking industry?

MR. THURBER: To the banks which issue credit cards.

SENATOR JACKMAN: Oh, the banks which give the credit cards.

MR. THURBER: Right.

SENATOR JACKMAN: Just to make a point with you-- I notice that First Jersey National Bank charges 18% as of August and December, 1984. What would it be in 1986?

MR. THURBER: Eighteen percent.

SENATOR JACKMAN: Eighteen percent? So, it didn't go nowhere in two and a half years?

MR. THURBER: Correct. In fact, we've seen--

SENATOR JACKMAN: All these rates are the same then?

MR. THURBER: I'm not sure about that. I haven't compared them for each of the banks. There is, for example, one bank -- which was mentioned earlier, the First National Bank of Toms River -- that charges 15%, and charges no annual fee.

SENATOR JACKMAN: You know, it would seem to me that you would be better off taking a home mortgage and carrying it over a period of one year or three years, and you get the home mortgage for 9-1/2% and 10%, instead of buying furniture and paying 18%. Go in and refinance; go and get the mortgage. It's cheaper. Is that true or isn't it?

MR. THURBER: It makes sense, yes.

SENATOR JACKMAN: Doesn't it make sense?

MR. THURBER: Sure.

SENATOR LESNIAK: If you have a home to mortgage.
(laughter)

SENATOR JACKMAN: That's true. How about your wife?

SENATOR LESNIAK: I can't mortgage my wife. I don't have a wife. Can't get anything.

MR. THURBER: The impact of the high rates we discovered in this survey--

SENATOR JACKMAN: How many complaints did you receive from the public on the basis of rates?

MR. THURBER: Again, we have difficulty sorting out exactly the nature of the complaints, but we have had only a few, as far as we can tell.

SENATOR JACKMAN: You see, that is the thing that frightens me. We have so few complaints, and yet somebody-- I don't know whether we're stirring something up when we do something. That is the thing that worries me. If nobody is complaining-- You know, if it's not broke, don't fix it. (laughter) That is the thing that worries me. You don't have any complaints; the banking industry doesn't have any complaints, and all of a sudden we're stirring something up maybe. I am not sure.

In my office, and I am in a predominantly industrial area, I'll give you my word of honor, I have not received one complaint, and I have been in the Legislature for 20 years. Twenty years I have been sitting down here -- okay? -- and I haven't received one complaint from anybody on a credit card call or on banking costs or anything. I haven't. I don't know, if I went out and looked for it, I guess I would find anything. But, as I said, I don't go looking for trouble.

MR. THURBER: The pattern, at least in our office, though, has been that we receive complaints when consumers sense that there has been some mistake; for example, a mistake in calculating a balance. They do not complain, normally, because they think the annual fee is too high, or because the interest rate is too high, or they don't like the location of a bank -- some aspect of their life they don't think they have control over, or they don't think is broken, as you would say.

Of course, the contrast is, if you talk about this problem with people you encounter on the street or your friends, everybody is complaining about it. They just haven't directed those complaints to governmental agencies or legislators.

SENATOR JACKMAN: Okay.

SENATOR LESNIAK: Senator Cardinale?

SENATOR CARDINALE: In line with what Senator Jackman has been questioning, I know this is not the first document the Public Advocate has produced with respect to this question. I have seen at least one other. I wonder if you can tell me how long you have been studying this question?

MR. THURBER: I believe it has been a relatively new focus for the Public Advocate in the last year or so, since this has been a matter that has been brought to our attention.

SENATOR CARDINALE: So, you have been going over this for about a year. Can you give me an idea of how much in public funds you have expended in the course of studying this question?

MR. THURBER: We haven't made any out-of-pocket expenditures in terms of retaining consultants. Everything that we have been able to obtain has been free to us. In terms of staff time, it is difficult to calculate, obviously.

SENATOR CARDINALE: Oh, you think that staff time is free; no one pays for it?

MR. THURBER: No, certainly not; certainly not. But it doesn't compare to the \$100 million that we estimate New Jersey consumers are paying each year in excessive interest rates.

SENATOR CARDINALE: I am well aware that there may be something that consumers— I am talking about the charge of your Department and the criteria on which— See, Senator Jackman asked you a question, and I was very interested in the answer that you haven't had complaints from the public. Yet, you have, for a year, been going into an examination of this question. It is not the main area— You know, I would expect the Banking Department to be going into this question, but I find a little difficulty with the Public Advocate getting into almost every area that every branch of government seems to be involved with. When it goes into those areas on the basis of

complaints from the public, I can almost understand it. But, when it goes into those areas without any basic complaints from the public, I wonder what the criteria is by which you decide what areas you are going to investigate.

MR. THURBER: That criteria was laid out by the Legislature when it established the Department. The Department was charged to represent the public interest as that is determined by the Public Advocate -- Commissioner Slocum.

SENATOR CARDINALE: Well, I have read that legislation, and I disagree with your interpretation of it. I suppose in another forum, at some time, we will come to a determination of whether that is or isn't a valid thing.

I would like, from the Public Advocate, some estimate of what it has cost to enter into this and other questions.

SENATOR LESNIAK: Senator Cardinale, that is not on the bills.

SENATOR CARDINALE: Well, he submitted something to us, and I think we are entitled--

SENATOR DiFRANCESCO: He is here for somebody else. He is speaking on behalf of a guy who is sick and couldn't make it.

SENATOR LESNIAK: Senator, you can write to the Public Advocate and ask for that information.

SENATOR CARDINALE: Well, I have him here, and it cost other public funds--

SENATOR DiFRANCESCO: It's not often they support the Senate Republicans, Senator.

SENATOR CARDINALE: Well, even when they support our position, I think that they really have no place in becoming a shadow government. Each and every time, Senator, that they come before this Committee -- or any other committee I sit on -- I am going to ask that question, and ask the criteria, because there are things that validly they should do, but this is not one of them.

SENATOR LESNIAK: Senator, that is another issue for another day. Are there any other questions from the Committee? (no response) Thank you very much. May we have Senator Garibaldi?

SENATOR JACKMAN: Hey, Garibaldi, why don't you sit down and say, "Me, too," and that's it. (laughter)

SENATOR LESNIAK: Go ahead, Senator Garibaldi.

SENATOR PETER P. GARIBALDI: Thank you, Senator. First, let me remind my colleagues that I am a member of your party, so--

SENATOR JACKMAN: Sometimes we wonder.

SENATOR LESNIAK: Sometimes they wonder.

SENATOR GARIBALDI: Senator Jackman, you raised an interesting point, in that the people are not complaining. That is certainly not the image I am getting right now. As a matter of fact, just recently, a Congressman from New York -- Congressman Schumer -- had prepared, and filed with "The Congressional Record," a list of banks nationwide and the rates they charge throughout all the states of our great nation, and New Jersey is the highest amongst all of them. That includes national and state-chartered banks.

SENATOR LESNIAK: Does that include Chemical Bank and Citibank in New York?

SENATOR GARIBALDI: I have the list; I can provide it for the record. If you want, I'll go through the list for you, Senator, but I--

SENATOR LESNIAK: I would like you to provide it for the record.

SENATOR GARIBALDI: Yes. Here is the list that is in "The Congressional Record." Banks across the nation with low credit card rates-- The lowest was 11% in Arkansas; the highest--

SENATOR JACKMAN: Yeah, and how much money are they loaning out? (laughter)

SENATOR LESNIAK: Senator, what is the unemployment rate in Arkansas? Senator, do you know the unemployment rate in Arkansas?

SENATOR JACKMAN: And, how many phones did they close down?

SENATOR GARIBALDI: Hold on. Do you want to know-- Do you want to get in?

SENATOR LESNIAK: Yes. I very much would like to know the unemployment rate in Arkansas.

SENATOR GARIBALDI: First of all, let's talk about interest rates in New Jersey.

SENATOR LESNIAK: I would like to know the unemployment rate in Arkansas. I asked you a question, Senator.

SENATOR CARDINALE: Senator Lesniak, what does the unemployment rate in Arkansas have to do with bills on credit cards in the State of New Jersey?

SENATOR LESNIAK: I'll answer that question. It has to do with the economy of the State of Arkansas. If we want to do to our economy what Arkansas has done to its economy-- We can use them as an example. I don't think we would fare very well if what took place in Arkansas--

SENATOR GARIBALDI: You didn't let me finish, Senator. We have a whole list of banks. Why you selected Arkansas as to their unemployment rate-- If you want to go through all the list of banks in each state and compare them with New Jersey, and then discuss the unemployment rates and the economic activities--

SENATOR LESNIAK: Absolutely, Senator; absolutely, Senator.

SENATOR GARIBALDI: --I would be happy to do that.

SENATOR LESNIAK: Go right ahead; absolutely.

SENATOR GARIBALDI: I would like to show you something that appeared--

SENATOR LESNIAK: May I have your list, Senator? Senator, may I have your list?

SENATOR GARIBALDI: Yes, you'll have that when I'm finished. I would like to show you something. This appeared in The Home News yesterday -- in my local paper. Now, here is what they think of the New Jersey credit card institutions, and here is what they think of boat loans, auto loans, home loans. Mortgage interest rates down to 8-1/2%; auto loans down as low as 5.9%; even a boat loan. Now, who would go out and buy a boat but people with money? But yet their interest rate is as low as 8%. Yet a credit card, where people have to use that money to purchase necessities, such as refrigerators, stoves, and household necessities-- You don't think the wealthy folks are the ones who are taking advantage of that high interest rate, do you? It's the people who can least afford it. It is the people who have to buy these necessities.

SENATOR LESNIAK: Are you going to submit that for the record?

SENATOR GARIBALDI: Oh, yeah, and for the benefit of anyone else who wants to see it. This appeared in The Home News, a Central Jersey newspaper here. I think that speaks for itself, Senator.

SENATOR LESNIAK: Senator O'Connor?

SENATOR O'CONNOR: Senator, just on that point, you're talking about the differentiation in the rates for car loans and boat loans, but in each of those instances, you're talking about loans which are secured. Correct? I mean, there is collateral there.

SENATOR GARIBALDI: Well, you have your boat, your car -- sure.

SENATOR O'CONNOR: But, credit card loans are not secured. If you default on a credit card, what do they do, come take the coat back that you bought?

SENATOR GARIBALDI: Well, they repossess. They will get judgments against you. They will attack your possessions. First of all, an individual--

SENATOR LESNIAK: Senator O'Connor raises a good point, Senator. Do you know what the default rate on credit cards is compared to the default rate on the other loans? You know, that is a great picture; it is great to draw, and great to laugh about. But, let's get serious. Do you know what the default--

SENATOR GARIBALDI: Would you allow me to finish my -- to at least finish my presentation?

SENATOR LESNIAK: Generally, we don't do that, but we will make an exception for you. We will make an exception for you, Senator.

SENATOR GARIBALDI: Well, if you want to go at it, let's go.

SENATOR LESNIAK: Generally -- as I said -- we like to ask questions and elicit responses to what is on our minds.

SENATOR GARIBALDI: Very good. Well, I would hope you would address the questions to my legislation.

SENATOR LESNIAK: If you just want to give a prepared statement, that's fine.

SENATOR GARIBALDI: No. I have a prepared statement; I have this information. I would be happy to answer--

SENATOR LESNIAK: Senator, what do you prefer to do -- give your prepared statement or answer questions?

SENATOR GARIBALDI: I will answer your questions.

SENATOR LESNIAK: Okay, thank you, Senator. Any questions?

SENATOR CARDINALE: Yes. Would you read your prepared statement, please? (laughter)

SENATOR GARIBALDI: You thought you were going to get rid of me, right, Senator?

First, let me just say what my bill does for the benefit of the members of the Committee, and anyone else who is interested. The bill I have introduced -- and this is one of several I have introduced-- The one we have before us in the

Committee today would establish an average prevailing interest rate based on the loans or extensions of credits that are made by State and federally chartered banks, or lending institutions. The bill would also apply a 2-1/2% rate. At the going rate right now, that would come to about 11-1/2% in the State of New Jersey.

SENATOR LESNIAK: What rate was that, Senator?

SENATOR GARIBALDI: Eleven and a half percent. Based on the going average lending rate of 9%, 9-1/2%, my 2-1/2% above that would bring it to approximately 11%, 11-1/2%.

SENATOR LESNIAK: Senator, do you have any figures as to what credit would be available to New Jersey consumers if the interest rates were forced to be that low?

SENATOR GARIBALDI: No, but I could say this--

SENATOR LESNIAK: No, you do not. Is that the answer?

SENATOR GARIBALDI: I didn't say that. I didn't say, "No, I do not."

SENATOR LESNIAK: You said "no."

SENATOR GARIBALDI: I said-- I have an answer for you.

SENATOR LESNIAK: What is the answer?

SENATOR GARIBALDI: Whether it suits you-- You know, are you going to permit me to answer a question, or are you just going to gag me? Is that your way of running a meeting -- you are just going to gag? Or, do you want to hear testimony?

SENATOR LESNIAK: Senator, are you accusing me of gagging you?

SENATOR GARIBALDI: Well--

SENATOR LESNIAK: Because I certainly will. You have accused me of an awful lot in the past, Senator. Do you want to accuse me again?

SENATOR GARIBALDI: Well, you happen to be the Chairman, now.

SENATOR JACKMAN: All right, fellows, take it easy.

SENATOR GARIBALDI: I am here to present a posture on what I feel is vital to the interests of the people of the State of New Jersey.

SENATOR JACKMAN: Let's do it, and we'll ask questions through you, Mr. Chairman.

SENATOR LESNIAK: Senator, finish your answer about availability of credit at your interest rates. What figures do you have to back that up?

SENATOR DiFRANCESCO: Where is he going to get the figures from? Figures come from banks.

SENATOR JACKMAN: Yeah. Listen, let me--

SENATOR LESNIAK: He said the answer wasn't no. Let him explain.

SENATOR JACKMAN: All right. Why don't you--

SENATOR LESNIAK: Let me explain. He said the answer isn't no. Let him explain.

SENATOR JACKMAN: Well, why don't we let him complete his testimony.

SENATOR LESNIAK: Let him explain. The answer isn't no, Senator. What is it?

SENATOR GARIBALDI: This is what I was going to present as an answer. Only a few short years ago, this Legislature -- I wasn't a member of it -- but this Legislature in the State of New Jersey lifted ceiling rates on credit cards, because there was a cap. I believe many of you sat--

SENATOR DiFRANCESCO: More than credit cards. We lifted everything.

SENATOR GARIBALDI: Right. You lifted ceilings on banks, credit cards, everything. And at the time, as I recall reading about this thing in the news media, one of the reasons ceilings -- and it had nothing to do with how many banks would go out of business, or how many banks would come into business, or what the rates would be as a result of the lifting of them-- The argument that was presented at that time was that

the banks could not compete in the State of New Jersey because of the high interest rate plateau that was reached at that time. If you recall, just a few short years ago, interest rates on savings accounts were 15%, 16%. Banks were complaining that they could not compete with the whole circumstance.

SENATOR JACKMAN: Excuse me. What savings account ever got 15% in my lifetime, and I am going to be 70?

SENATOR GARIBALDI: Just a few short years ago--

SENATOR JACKMAN: Savings accounts-- You got 15% interest?

SENATOR GARIBALDI: Well, savings certificates.

SENATOR JACKMAN: No, you didn't say that. If I put my money in a savings account I got 15% interest?

SENATOR LESNIAK: Senator, Federal regulations just lifted the Federal cap on savings accounts. It was 5-1/4%, not 15%.

SENATOR JACKMAN: I don't remember, do you?

SENATOR DiFRANCESCO: CDs. He's talking about CDs.

SENATOR JACKMAN: You got me scared when you said that. I must be going to the wrong bank. (laughter)

SENATOR LESNIAK: Senator, it was 5% on savings accounts.

SENATOR DiFRANCESCO: Are you saying we didn't have 15% CDs?

SENATOR JACKMAN: I didn't say that. Whoa, whoa. He said savings accounts. That means I can go in and take my money in and take it out every day.

SENATOR CARDINALE: Senator Jackman, not everyone is as sophisticated as you are in understanding all of the different documents that are issued by banks.

SENATOR JACKMAN: You didn't give me that sophistication.

SENATOR CARDINALE: I'm sure that all of us understand that there are many different kinds of instruments that are issued--

SENATOR JACKMAN: I know that.

SENATOR CARDINALE: --and certificates of deposit are understood by all of us.

SENATOR GARIBALDI: Fifteen and a half percent was available for anyone to save their money.

SENATOR LESNIAK: Senator, about the only thing you have said correct so far, in response to my question, was that you weren't here at the time that bill was debated and I was. The main thrust of the argument in favor of that bill was the availability of credit to consumers.

SENATOR GARIBALDI: That's right.

SENATOR LESNIAK: Okay.

SENATOR GARIBALDI: And why, based on the fact that with that cap, and with high interest rates that could be derived under any other circumstance -- including auto loans, mortgages-- You know, mortgage rates were at their highest. So, the credit bank institution said, "Look, we can't compete because everybody else is getting that high interest rate."

SENATOR LESNIAK: They said it was because they couldn't purchase the money and give out the loans with that cap on. That deals with the availability of credit.

SENATOR GARIBALDI: Well, that was the argument that was presented. That is why I assume the Legislature lifted the ceiling. Now, where the reverse is true, interest rates, auto loans are half of what they were then; mortgage rates are just about half, without getting specific with individual banking institutions, and interest rates are continually dropping. Even look at today's Wall Street Journal. Interest rates are dropping even further. Yet, this State Legislature -- we in New Jersey -- have done nothing to force, or compel, or even beg our credit card institutions to lower their rates, without having to impose a ceiling.

All I am saying, Senator, is that I believe that as a Senator myself, you, all of us, have something we should be doing, and that is addressing this issue.

SENATOR LESNIAK: Senator, you are trying to answer the question I proposed about what this cap would do in terms of availability of credit. Was that your answer?

SENATOR GARIBALDI: What this cap would do to the availability--

SENATOR LESNIAK: My question was, what would your cap do to the availability of consumer credit to consumers in the State of New Jersey?

SENATOR GARIBALDI: My answer is, at this time, with interest rates as they are under all other lending circumstances, I believe it would have no impact whatsoever on those credit card institutions.

SENATOR LESNIAK: Senator, what is the interest rate on boat loans now?

SENATOR JACKMAN: On what?

SENATOR LESNIAK: On boat loans.

SENATOR GARIBALDI: Boat loans?

SENATOR LESNIAK: On car loans?

SENATOR GARIBALDI: Car loans-- As low as 5-- I think the lowest I've seen advertised, at least in my local paper--

SENATOR JACKMAN: You've got to buy from the dealer.

SENATOR GARIBALDI: --is 5.8%.

SENATOR JACKMAN: Yeah, but that-- I found out that when you get there, there is a hooker. (laughter) You didn't get the 5.8%. Believe me. You didn't get no 5.8. I found that out. That would be providing you owned your own home and you had \$150,000 in the bank.

SENATOR LESNIAK: Has anybody bought a car recently for 5.8%?

SENATOR JACKMAN: No, forget it. I didn't.

SENATOR LESNIAK: Maybe we ought to get Assemblyman Kosco in here to see what rates he is charging at his place. Are there any other questions? (no response) Thank you, Senator.

SENATOR CARDINALE: I think it is worthy of observation, because the threat has been running through some of the questioning by various members of this Committee. What we had in the past were inflexible percentage rate limitations. What is embodied in each and every one of these bills, whether it is Senator Contillo's bill, or Senator Dorsey's bill, or Senator Garibaldi's bill, or any of the others, is a flexible rate, and I think that is the difference that everyone seems to have centered on, so that we avoid getting back into the problem of unavailability of funds.

There are varied formulas in here, so you would arrive at different rates with those different formulas. One of the things we ought to be looking at is, what kind of formula we ought to derive if, in fact, we are going to put it in, because I share your view that-- I think there is no disagreement, really, even with the sponsors of these bills, the people who drafted them, the people who have studied them. If we were to impose, again, an inflexible rate, we would find ourselves, at a certain point in the economic cycle, back in the same problem that caused us to lift those rates in the past.

So, let's not refer back only to, you know, a situation that we really are not trying to recreate, but to a situation that we see, perhaps, as an improvement over both the past and the present.

SENATOR JACKMAN: Yeah, but the only question I raise-- Gari -- hey, Garibaldi, look at Uncle Chrisy.

SENATOR GARIBALDI: I don't know, Chrisy, you--

SENATOR JACKMAN: You raised a question about Arkansas with their 11-1/2%, or whatever it was. You want to cap ours around 12, is that it?

SENATOR GARIBALDI: No. It would be flexible. It wouldn't be a cap. In other words, whatever the lending rate was--

SENATOR JACKMAN: But, at this time, it would be around 12. Similar in nature to what Contillo did -- 6 plus 6.

SENATOR GARIBALDI: Right, right.

SENATOR JACKMAN: The reason I ask the question -- and, don't think I am being facetious because you know what I tell you is the truth-- I, at one time-- (laughter) No, I'll tell you why. I covered Arkansas at one time with my union, and I helped to organize in that area. I am familiar with what is taking place in Arkansas today. All I know is that they are closing farms down; people are going out of business. Nobody is getting 11-1/2% loans nowhere -- nowhere down the line.

SENATOR DiFRANCESCO: Can we relate Arkansas' unemployment problem to credit card interest rates?

SENATOR JACKMAN: No. Well, wait. You're talking about ratings, you're talking about--

SENATOR DiFRANCESCO: There is a whole myriad of problems in each state with regard to unemployment.

SENATOR JACKMAN: Mr. DiFrancesco, I understand that; I know that.

SENATOR LESNIAK: I think Senator Jackman's point is well taken.

SENATOR GARIBALDI: I believe it is, too. Chrisy, you know, you and I-- Our thoughts have coincided many times, but all I can say is, whether it be Arkansas, in this instance, which happens to be less than half, or just about half of what New Jersey consumers pay-- I just cannot believe that New Jersey consumers are twice as risky as the consumers in Arkansas when it comes to borrowing money.

SENATOR LESNIAK: Maybe they demand--

SENATOR JACKMAN: Other than the fact that Arkansas is lending their money up here in New Jersey and New York, and they are not lending it to the people in Arkansas.

SENATOR LESNIAK: A good point. Thank you, Senator Jackman. Senator Garibaldi, may I have your list for the record, please?

SENATOR GARIBALDI: Sure, sure.

SENATOR LESNIAK: You can keep the picture.

SENATOR GARIBALDI: I thought you wanted that.

SENATOR LESNIAK: Dr. Dunkleberg, Professor of Economics, Purdue University.

Just a second. I want to point out-- Senator Garibaldi, this is the list of banks across the nation with low credit card rates. Do you have the banks with high credit card rates?

SENATOR GARIBALDI: No. As I stated, that is the report that was produced by Congressman Schumer of Brooklyn, New York.

SENATOR LESNIAK: Okay, and is Citibank on this list?

SENATOR GARIBALDI: The reason why that list is being presented this morning is because it was announced on CBS Radio, and there has been an overwhelming response from the public.

SENATOR LESNIAK: Is Citibank or Chase Manhattan on this list?

SENATOR GARIBALDI: I think so.

SENATOR LESNIAK: No, they're not.

SENATOR GARIBALDI: They're not?

SENATOR LESNIAK: No, they're not. Well, no sharks on that chart.

Let's have everyone's attention, please. Dr. Dunkleberg, Professor of Economics at Purdue University. Doctor?

SENATOR CARDINALE: Doctor, I wonder if you could hold that up so that the people on this side of the aisle could see it, too?

D R. W I L L I A M C. D U N K L E B E R G: I will do that at the appropriate time. I think we planned a somewhat different order, so maybe we should let this gentleman start it, if you don't mind.

SENATOR LESNIAK: Oh, I'm sorry. You're Edward Goldberg, Chairman, New Jersey Retail Merchants Association. Is that correct?

E D W A R D J. G O L D B E R G: Yes, it is. I have a statement to read, but I am also here to introduce Dr. Dunkleberg, whatever the pleasure is of the Committee.

SENATOR LESNIAK: Well, we would prefer that you summarize your statement, and then introduce the Doctor.

MR. GOLDBERG: Okay. I can be brief. Chairman Lesniak and members of the Committee: My name is Edward J. Goldberg. I am here today as Chairman of the New Jersey Retail Merchants Association. Our Association represents many small, medium, and large businesses throughout the State of New Jersey.

Obviously, we are here to oppose bills which would impose ceilings on finance charge rates. I would like to thank everyone here for giving us the opportunity to appear before you and dispel some of the major misconceptions about retail card services and their costs.

There are several misconceptions that I will not go into in detail, but just very briefly. The first misconception is that retail credit card finance charge rates are grossly out of line with the cost of providing credit services and that finance charge rates should correspond closely to changes in market rates.

I believe the simple fact is that finance charge rates represent a charge for a package of credit-related services and the cost of funds, i.e., the retailer's cost of financing the accounts receivable investment, is much less important in setting retail credit card finance charge rates than for other types of credit.

Retailers do not borrow money at the prime rate, but, in fact, finance their receivables at varying rates above the prime, depending on their particular financial condition.

In 1972, when the Legislature set finance charge rate ceilings for retail revolving credit at 18%, the prime rate was approximately 5.25%. After 1972, the prime rate moved up dramatically. Yet in 1982, after the Legislature removed the rate ceiling -- and when the prime rate averaged 14.97% -- many retailers raised their nominal credit rates from an 18% annual percentage rate to a 19.8% annual percentage rate. Even for those retailers which raised their nominal rate from 18% to 21%, it resulted in only a 17% increase in the finance charge rate.

I would also like to correct the record -- something in the record that was stated earlier this morning -- that Bamberger's charges 21%, which is not correct. Bamberger's charges 19.8%.

Retail credit differs from other credit, such as automobile or mortgage loans. Retail credit involves small balances, which are not collateralized. Moreover, the revolving nature of most retail credit necessitates monthly billing statements, with all of their attendant costs.

Most, if not all, retail credit card plans in New Jersey provide a free ride period which gives account holders the option of avoiding any finance charge by paying the full outstanding balance within 30 days of billing. Depending upon when a purchase is made in the billing cycle, the account holder may have as many as 59 days to pay for the purchase in full without incurring a finance charge.

During this presentation, Professor Dunkleberg will clearly show you that even when you use a 21% annual rate percentage rate, the annual percentage rate of the actual cost to the consumer for a \$100 purchase is not \$21 as you might expect, but really \$9.99, when the balance is paid off normally over a 12-month period.

Artificially imposed limits on credit card finance charge rates that do not give creditors sufficient leeway to cover all of their credit costs will adversely affect the availability of credit, result in higher cash prices and the subsidization by cash-paying customers for credit accounts, and, obviously, possibly result in the loss of other consumer benefits, such as elimination of the free ride period -- as has been stated.

In summary, we believe that deregulation has benefited consumers, businesses, and the economy, and that a free marketplace has produced an environment in which there has been increasing product differentiation and competition. This competitive environment offers all credit-worthy individuals a means of securing credit and encourages creditors to provide and enhance a wide variety of credit vehicles.

I would now like to introduce--

SENATOR LESNIAK: Mr. Goldberg, we have some questions first, before you introduce Dr. Dunkleberg. Senator O'Connor?

SENATOR O'CONNOR: Just very briefly, you said that your rate now is 19.8%.

SENATOR LESNIAK: Bamberger's rate.

SENATOR O'CONNOR: Bamberger's rate, yeah.

MR. GOLDBERG: That is correct.

SENATOR O'CONNOR: One of the concerns the Committee has is that the rates just haven't kept pace proportionately with the decreases in other areas. What were your rates back in 1981, when deregulation occurred?

MR. GOLDBERG: Well, the actual responsibility for credit does not fall on my shoulders. I am Vice President for the Consumer Affairs and Customer Services. I believe that in that particular period the rate was very close to what it is at this particular time.

SENATOR DiFRANCESCO: Mr. Chairman, I have some questions.

SENATOR LESNIAK: Do you want to wait until the Doctor--

SENATOR DiFRANCESCO: I would like to ask Ed a couple of questions--

SENATOR LESNIAK: Okay.

SENATOR DiFRANCESCO: --just for my own purposes. They have nothing to do with a position either way.

I just looked in my wallet, and I have had this card for a long time. I guess I got it because probably my wife couldn't get one in those days, whenever that was. What do you do to advise me, since, obviously, this is an original card -- and I know this is not what they look like today with Bamberger's-- What do you do on a yearly basis, or on a monthly basis perhaps, to advise me of my rate?

MR. GOLDBERG: Well, as you realize by being a credit card holder, on a monthly basis you receive a statement.

SENATOR DiFRANCESCO: Yeah. I don't really look at it, so--

MR. GOLDBERG: On that statement, the rate is very clearly stated.

SENATOR DiFRANCESCO: That the rate is specifically 19.8%?

MR. GOLDBERG: That is correct.

SENATOR DiFRANCESCO: Okay. Now, do you charge a fee -- a yearly-- I don't think you do.

MR. GOLDBERG: No, we do not. I believe that is against the law in New Jersey.

SENATOR DiFRANCESCO: Say that again.

MR. GOLDBERG: I believe it is against the law in New Jersey for--

SENATOR LESNIAK: For retail merchants to charge a fee?

SENATOR DiFRANCESCO: For retail merchants to charge a fee?

MR. GOLDBERG: (continuing) --retail merchants to charge a fee.

SENATOR DiFRANCESCO: Okay. I didn't know that.

SENATOR JACKMAN: Oh, yeah.

SENATOR DiFRANCESCO: It is not against the law for a bank to charge a fee, but it is against the law for a retail merchant to charge a fee?

MR. GOLDBERG: I can only speak for the retail merchants.

SENATOR DiFRANCESCO: The Banking Commissioner's person is shaking his head yes.

SENATOR LESNIAK: It appears to me, quite frankly, that something is wrong there, because if the retail-- That is one way of at least getting the people who get the free ride -- like us, who can afford a free ride -- to pay something.

SENATOR DiFRANCESCO: Well, on the other hand--

SENATOR LESNIAK: As opposed to the--

SENATOR DiFRANCESCO: This is related to the purchase, perhaps, of some necessities, and bank credit cards, you know, you probably use them to pay for all your expensive dinners, and all that jazz. Right? (laughter) No, I know what you're saying. I didn't realize that they were prohibited. And, they also have a grace period. I just want to-- They have a grace period, right, so many days to pay--

MR. GOLDBERG: Correct.

SENATOR DiFRANCESCO: --before you start charging that 19.8%?

MR. GOLDBERG: That is correct.

SENATOR DiFRANCESCO: What is that grace period -- 20 days?

MR. GOLDBERG: Thirty days.

SENATOR DiFRANCESCO: That's not uniform in the retail industry, is it?

MR. GOLDBERG: Again, I would not be able to answer that question.

SENATOR DiFRANCESCO: You're not sure, okay. The Public Advocate, in his statement, said--

SENATOR LESNIAK: By the way, Senator, you don't want uniformity, do you?

SENATOR DiFRANCESCO: No, I'm just asking. I am just trying to get information.

SENATOR LESNIAK: No, no, I understand that. But, you don't think uniformity is good, do you?

SENATOR DiFRANCESCO: I think that a grace period is good.

SENATOR JACKMAN: Oh, yeah, we do; yeah.

SENATOR DiFRANCESCO: I mean, I really think that some form of grace period is good, in that it lends a lot of weight to your argument about the market. It really gives the consumer an opportunity to have an advantage, really, over going out and borrowing the money from a bank. So, I think that while it may not be-- I mean, you lose money by giving somebody a grace period, but I think it is good for the consumer, and I would not want to discontinue it, although I know that some banks in New York don't have a grace period.

SENATOR LESNIAK: It is good for the wealthier consumer, but maybe not good for the--

SENATOR DiFRANCESCO: Well, I don't know about that. I don't know if I agree with all of the statements made previously about all the wealthy people pay off their credit card charges. I don't know, because I am still as poor as I was 15 years ago. But-- (laughter)

Let me get into the Public Advocate's statement with Ed for a couple of questions. We already covered the annual fee. We talked about the grace period. He talked about fees for, for example, failure to make minimum payments. Have you ever heard of such a thing?

MR. GOLDBERG: I believe it would really be best if Dr. Dunkleberg could address these particular issues.

SENATOR DiFRANCESCO: Really? He would be a better-- Maybe it is not even retailers who should be addressing them. I mean--

SENATOR LESNIAK: Quite frankly, I don't think he would be familiar with that particular issue in the State of New Jersey, would you, Doctor?

DR. DUNKLEBERG: Vaguely. I couldn't tell you store by store what the policies were.

SENATOR LESNIAK: Oh, but you do know generally?

SENATOR DiFRANCESCO: Ray, let me tell you, and then you can-- In his statement, on page 5, he said: "Banks have begun to impose other types of fees as well, such as fees for failing to make minimum payments, fees for exceeding credit limits, fees for cash advances, even fees for copies of sales slips and duplicate monthly statements." I really wasn't aware that there were fees. In some way, whatever way we can, with whatever witnesses we have, I would like to try to figure out who is charging those fees and how they do that.

SENATOR LESNIAK: Okay, fine.

SENATOR DiFRANCESCO: That was my other question.

MR. GOLDBERG: I would like to introduce Dr. Dunkleberg, who can tell you--

SENATOR CARDINALE: Before you do that, I have a couple of questions on your statement.

SENATOR LESNIAK: This isn't the Public Advocate now, you know.

SENATOR CARDINALE: I understand that he is not the Public Advocate. I think this witness is legitimately here.

SENATOR JACKMAN: Hey, don't forget, the Public Advocate is an appointee of the Governor, who is a Republican. (laughter)

SENATOR CARDINALE: It is a creation of the Legislature, and should be functioning in the fashion that the Legislature established.

SENATOR LESNIAK: Let's get on the bills.

SENATOR CARDINALE: You indicated that the prime rate is not an accurate reflection of the cost of money. Can you

tell us what the cost of money is now, in your individual circumstances, and what it was a year ago?

MR. GOLDBERG: Specifically, I cannot tell you what our cost of money is; I can only tell you what goes into this formula that requires a particular rate.

SENATOR CARDINALE: Well, I appreciate the fact that you will get into that, but I would like to get to some of the components of that formula, because some of them are probably very similar in terms of what they were last year and this year, and some of them are dramatically different. I suspect that what you pay for money is dramatically different this year than it was last year.

Now, that may not be so. Until you tell me, I really won't know whether there is a great disparity between what you were paying last year and what you are paying this year.

MR. GOLDBERG: I only know that obviously we pay above the prime rate for the money we have, but I could not tell you specifically what that is. I'm sorry.

SENATOR CARDINALE: You can't answer it, all right. Thank you.

SENATOR JACKMAN: You know--

SENATOR LESNIAK: May we listen to the Doctor, please? He came all the way from Purdue University.

SENATOR JACKMAN: Okay.

SENATOR O'CONNOR: Home of the Boilermakers.

SENATOR LESNIAK: Right. They make great chicken, too.

SENATOR DiFRANCESCO: Indiana.

SENATOR LESNIAK: Go ahead, Doctor.

MR. GOLDBERG: Let me just give you some of Dr. Dunkleberg's background. He is Professor of Economics at Purdue University. Prior to that, he was at Stanford University and the University of Michigan. He was the Associate Director for the Credit Research Center between 1975 and 1980 at Purdue University. He has been involved in the

study of consumer credit since 1965. He has received grants from the National Science Foundation and the Ford Foundation. Recently, The New York Times stated that he is currently being considered as a Vice Chairman for the Federal Reserve. Back in 1981, he was considered one of the final four candidates for a Vice Chairman position. He is an adviser to the Federal Trade Commission, the Federal Reserve, and the Department of Labor, and he has to his credit many publications on credit in various scholarly journals. Dr. Dunkleberg.

SENATOR JACKMAN: Doc, you gotta lot of jobs.
(laughter)

DR. DUNKLEBERG: It keeps me busy. Now that my credibility has been established-- I appreciate the opportunity to be here today. I know you have a very busy schedule, and I will try to get through my testimony fairly quickly and make the points I would like to make, and also talk about some of the points that I have heard made earlier and let you know what I have learned in the many years that I have been studying consumer credit about those particular issues. Hopefully, that will give us some better insight into the answers to some of these concerns we have.

Let me first begin by suggesting that one of the reasons this issue about credit cards seems to be such a big one, is that I think we fundamentally confuse what goes on with the credit card with other kinds of lending. I think the Committee has become aware of that. We are not talking about big, one-time loans here to finance a car, which is so expensive today that I think you need a second mortgage to take care of it. We are not talking about large chunks of borrowing. What we are talking about, really, is a financial service. That service includes the ability to go around and make a lot of \$5 and \$10 purchases without having cash with you, without having a checkbook with you. If you don't happen to have that-- From an identification point of view, I think

nowadays you have to have a credit card to cash a check. I don't know, but the identification function of the credit card is certainly a very important one.

The consolidation function is a very important one. You can put all these things together, and you can put them in on one-- You can pay them all with one check at the end of the month. With deregulated banking, as you all know, it cost money. It is not free any more. It never was free, but regulations allowed that to be subsidized. You have to pay for checking, and you save that way. You don't have to write all those checks; you don't have to pay for them. That is certainly a good deal.

The convenience on the cash management side for people who get paid once a month, once every two weeks, or whatever, is certainly very valuable. There is a record-keeping function that these things perform. You get lots of information that is very helpful for budgeting or for tax purposes. There are lots of other services that are now being made available through this medium of plastic.

And finally, but not least, is the fact that you have very, very flexible access to credit. I don't know of any other medium that allows you to get -- if you want -- a one-month loan for very few dollars for a couple of hundred bucks that you might have out, or a two-month loan, or a three-month loan, where you can decide to pay half maybe, or only the minimum payment. There is a tremendous amount of flexibility that helps consumers plan and handle their cash flow. So, this is a financial service that offers, really, more than just access to credit, although I certainly don't want to diminish the importance of that access to credit. It certainly is a very important feature of that particular service.

What we also see in today's market is that there is not just one kind of commodity that looks the same. As the

Senator suggested, there is a tremendous variety of services now offered out there by many kinds of institutions. Retailers, of course, are one, but banks, credit unions, savings and loans, and those institutions we used to call finance companies, that are certainly very different today than they were five or ten years ago. They all offer different kinds of packages. Those packages allow consumers to choose the best deal available based on their own situation.

Let me just give you a couple of examples. Frequently at these hearings, you will hear people cite low interest rate charges on a credit card by a savings and loan. But, if you go look at the savings and loan requirements -- and that may be one way to find out about all these terms you are interested in, just to go get the applications from these institutions, and look at them from retailers, and from banks, and so on-- But, if you look at that, you will also see that your credit line is set by the size of the savings account you keep in the institution, for example. And there are other kinds of requirements like that, which may be good for some consumers, but may not be good for other consumers. They clearly affect the price at which these services get offered.

But, there certainly is a wide variety and, as you all know, there is certainly a tremendous amount of competition. I haven't heard anybody really suggest that that is not the case. What we have seen over the past 10 years is a substitution, if you will, of more traditional forms of credit, the moving away from the traditional kinds of loans into a much more intensive use of this kind of plastic-driven credit card financial service, so that today we see that over 60% of the families in the U.S. have at least one credit card from some type of issuer.

On the complaint side, you know, they must be pretty happy with this. We had some questions about that, and I do have a few numbers which I will just offer to you: J. C.

Penney, which has about 17 million account holders, I think, has received no more than 20 or so complaints in the past year or so, and I am not sure about the time period on this. Probably about 11 complaints for Montgomery Ward, with eight million accounts; 25 complaints or so for Sears, with 28 million accounts. A lot of other stores here in New Jersey--

SENATOR DiFRANCESCO: Where did you get these statistics from? They sound bizarre.

DR. DUNKLEBERG: From the people from these firms in the industry.

SENATOR DiFRANCESCO: Complaints about the interest rate itself? Is that what we are talking about, or complaints?

DR. DUNKLEBERG: Yeah, basically complaints about the charges being too high. There are always the problems, you know, that the computer goofed up, and it didn't get my credit in, or my return wasn't handled right. There are a set of complaints that go along those lines, although those, again, have been dramatically reduced by the technological gains made in handling this kind of credit. As you know, it is a very different business.

In the early 1970s, if you went into a credit central, it would be all paper and a lot of file folders, one for every person. Today, of course, it is just computers, and that is much more efficient and makes many fewer mistakes.

So, we don't really see major complaints.

SENATOR LESNIAK: Tell that to the Division of Motor Vehicles.

DR. DUNKLEBERG: Pardon?

SENATOR LESNIAK: Tell that to the Division of Motor Vehicles.

DR. DUNKLEBERG: They still have the little folders hanging there with your name on it.

SENATOR LESNIAK: They should; they would do a lot better.

DR. DUNKLEBERG: They need to go to the same market that all the credit card issuers go to to hire their computer programmers, and hire theirs in that same market. Hopefully, they would get some different people.

SENATOR LESNIAK: Well, I'm sure they don't use accounting firms to run their computer services.

DR. DUNKLEBERG: Local ones? I don't know. There is a tremendous amount of competition; not many complaints. If you want to think about complaints, I think you might go back a few years and look at the number of complaints we got because we couldn't get credit. When credit started drying up, when people just moved away from consumer credit, and said, "This just does not make any sense," the banks, the credit unions, the savings and loans said, "How can we put savers' money into these kings of deals? We're pulling the credit card applications off. We are not going to make them available. That's it," that generated a lot of complaints. If credit is not available, if credit service is not available, then, in fact, we find that consumers become fairly unhappy about that.

Now, this is a valuable service, but it costs money to produce. I have looked at these costs now for a lot of years in a lot of states -- California, Texas, Arizona, New York. I can't even remember all the places now where we have done the studies and, of course, we published those results. But let me kind of characterize them in general.

If you look at this credit card financial service, only about half of the costs, on average, of providing the service have anything to do with the cost of funds. The rest of it has to do with the cost of everything else it takes; that is, wages, rent, utilities, postage, and all these other kinds of things. The cost of funds averages out to about half. Now, it will vary by retailer, of course, depending on how big a receivable they tend to carry, and it varies over time depending on how interest rates move relative to other costs.

But, what I want to suggest to you is, yes, it is true that interest rates have come down a long way from their peaks in 1981 to where they are today, but they are still almost twice where they were in 1972, when we set the 18% rule in this State. The other costs -- the other half -- have not come down. They are going up at a slower rate than they used to. The inflation rate is only around 3% or 4%, but I have not seen a cut in the cost of postage; I have not seen a cut in the cost of labor; I have not seen any of these other costs declining over time.

SENATOR LESNIAK: And the costs of making the other loans are much more dependent on the cost of funds.

DR. DUNKLEBERG: That's right. That is because those are very large loans. They are \$10,000 car loans, or \$8000 car loans, so the paperwork is very different. You don't send monthly statements. You do the paperwork one time, and then the consumer is responsible for mailing in the check, and so on and so forth. So, the non-money costs are far smaller for that kind of lending than they are for this credit card financial service.

Let me just give you an idea how those have changed. Someone was kind enough to put into chart form something I have had that I carry around in the papers I write sometimes. Let me just-- Are you going to hold that up for me? (referring to chart)

MR. GOLDBERG: Sure, I will be happy to.

DR. DUNKLEBERG: Let me just hold this up and give you a look at it. This is what has happened since 1972 to the overall price level. As you can see, on average, prices have gone up 157%. The prime rate in 1972 was around 5%, and today it is running around 9%. It has almost doubled. It is low compared to 21 in 1981, but it is still very high compared to what we thought was going on in 1972 and, of course, so are all these other costs.

Then I have some specific items here: Postage used to be eight cents, now 22 cents; a 175% increase in cost. It has not gone down. I hear that the cost of first-class postage is going to go up again. We all know that is because the cost of storage is rising at the Post Office.

The minimum wage used to be \$1.60; now it is \$3.35. That is a 199% increase. Just the index of wage costs in general. Social Security payments-- Certainly, those aren't going down. That is part of the cost of hiring labor. Look at what has happened here, a 367% increase in the base for Social Security. We look at the energy costs. You know what those have done. Fortunately, they are coming down now, and this is going to help out on the utilities.

When all this is happening, what we can see is that the prevailing finance charge rate at department stores have gone from kind of a typical rate of 18% up to 19.8%, which is about a 10% increase in the revenues over this entire period. So, the cost of money is down from 1981, but it is still 70% higher than it was in '72. All these other things are hundreds of percents higher, and yet the revenues we've got to cover these costs have only gone up about 10%. So, it's hard to think of this as really being, in some sense, out of line, based on our experience.

Thank you. I appreciate that. (to Mr. Goldberg for holding up chart) At school we use students to do that.

SENATOR LESNIAK: May we have a copy of that for the record?

SENATOR JACKMAN: We've got it. It's in the statement.

DR. DUNKLEBERG: Now, let me put it in a somewhat different perspective for you. Maybe we can think about this in terms of using your own money to make these kinds of investments. The average retail account is about \$200. That is the average balance maintained in an account, which isn't a whole lot. And, based on-- Let's just make it kind of--

Let's take the 19.8% rate. You have already pointed out, I think quite appropriately, that 19.8% APR does not yield 19.8%, because if you pay it off, you pay no finance charge. Then when you pay the last month -- even if you decide to revolve for a while -- when you finally pay it off, there is no finance charge in the last month. So, the fact that there is no finance charge for the people who pay off completely every time, and no finance charge in the last month-- When you finally look at total revenues, divided by the total receivable, the yield turns out to be several percentage points lower than the APR. Then, again, that will vary from retailer to retailer, depending on how big their balances are and how people pay. But, typically, you can think of the actual yield running around three points less. So, a 20% APR would have a yield, on average, around 17%; an 18 would yield around 15, and so on. That is pretty close as an approximation.

SENATOR JACKMAN: If you had a \$200 balance-- If you carried \$200 and you spread it out over a whole year, you would only be paying about \$20 interest.

DR. DUNKLEBERG: Well, as long as you raise that issue--

SENATOR JACKMAN: I think you would pay about \$20 interest.

DR. DUNKLEBERG: You are a little ahead of me there, but, let's see, here we go. (using chart to demonstrate) Here is 18, or 21. It doesn't matter. We could pick 21 to make it look real bad. Twenty-one is not bad either. In fact, if you did pay that off--

SENATOR JACKMAN: In one year, it would cost you about \$20.

DR. DUNKLEBERG: Over 12 months. Well, here is what it would cost you at 21% to carry \$100, so we will just double it, and it would cost you about \$20. You're only two cents off. That's very good. I worked hard to do this -- \$9.99 --

all right? -- let's say 10 bucks. So, at \$200, it would be about \$20 to carry that for the whole year.

SENATOR JACKMAN: Who would even carry a \$200 bill for one year and pay that kind of interest, because when you got down to -- and I am going to be facetious-- I guess-- What did you pay, about 30 cents, or 40 cents?

DR. DUNKLEBERG: Well, in the last month you have the minimums cutting. We have a 50-cent minimum here to cover, so--

SENATOR JACKMAN: If you send it in the mail, it costs you 22 cents to send in 50 cents.

DR. DUNKLEBERG: You're right; I agree with you. But, I want to tell you something.

MR. GOLDBERG: That's a low rate.

DR. DUNKLEBERG: Yeah, that's 21, and we're only at 19.8, so you're not talking about that much money. By the way, notice the difference between 18 and 21 on that \$100. It works out to 11 cents a month, if you pay it off that way. All right? So, if you talk about going from 18 to 21, you're talking about 11 cents per \$100.

SENATOR JACKMAN: Do you know where people get confused? Maybe I'm, you know-- I didn't go to college; in fact, I didn't go to high school. People, you know, when they see that 18%, automatically figure they are paying \$18 a month.

DR. DUNKLEBERG: That's right.

SENATOR JACKMAN: It's frightening with some people.

DR. DUNKLEBERG: Or a year, or something.

SENATOR JACKMAN: Yeah, you know. If you just sat down and tried to calculate it-- If you borrow \$1000 and spread it out, for God's sake, look at what the cost would be.

SENATOR DiFRANCESCO: Lots of people have running balances for years.

SENATOR JACKMAN: What?

SENATOR DiFRANCESCO: People run their balances for more than a year, Chris.

SENATOR JACKMAN: Well, anybody who runs a balance-- Please believe me-- Who would run a balance of 50 cents, and then send the 50 cents in with 22 cents postage? Somebody has to be-- We better go back to school and educate the people to let them know what they are paying. Excuse me.

DR. DUNKLEBERG: That's all right. That's true. I was going to say that out of the 60 million, or however many families have a credit card, I'm sure we have one somewhere who just did what you said. Consumers give us this tremendous variety of little stories to tell. But, what we need to do is look at what most people are doing, and that is not the case.

It is true that roughly a quarter of the consumers that have retail accounts will, in fact, run a balance every month. All right? So for 12 months they will have a balance all the time. You can think of them, in a sense, as getting a credit extension for the year of that amount at that rate. So, they are going to pay what we would see here per month. So, it would turn out to be a little higher.

Then, another quarter never pay a finance charge, and that is what I heard everybody up here saying they never did. Then, the other 50%, or so, are in the middle.

SENATOR DiFRANCESCO: You didn't hear me say that.

DR. DUNKLEBERG: Well, some of you anyway.

SENATOR JACKMAN: He cries on the way to the bank.
(laughter)

SENATOR CARDINALE: That is because he is making withdrawals, Chris.

DR. DUNKLEBERG: What I would like to suggest is that the only people who do that are the people for whom that makes economic sense. No one else does. That is an issue, I think, that we need to address, which we will do.

Just let me finish this simple example. If you had a \$200 balance paid back at 21, you would get, of course, 20 bucks, but at 19.8, you would get around \$18, or so. So, let's

pick \$18 as the revenue. If you felt that the cost of funds was around 10%, that would mean that with a \$100 balance, the cost of funds would then also turn out to be about \$10. If we start off with \$200, we go to zero. So, the average balance that you finance is \$100. So, that would be \$10 of your revenue that is gone right there. That leaves you \$8. Postage is going to run you around \$3 to mail the monthly statements and to mail the, you know, semiannual, or the biannual statement of your rights, and all those other kinds of things that we have to mail out. That is going to be \$3 there.

Then, bad debt losses are going to have to be figured in there. We want to talk about those, I think. If you figure about 1%, which is very good-- That's too low, but 1%-- That would be another \$2 on average on all accounts. It would be about \$2, so that adds your cost up to \$15, and leaves you \$3 to cover all those other costs we were talking about. You still have to pay rent; you have to pay people.

SENATOR DiFRANCESCO: Except for the fact that you are selling goods, which you make money on.

DR. DUNKLEBERG: Okay. Well, that is a point I would like to come back to.

SENATOR DiFRANCESCO: You sell a lot more goods with a credit card than you do with cash.

SENATOR JACKMAN: Yeah, but you also have to meet the payroll.

SENATOR DiFRANCESCO: What payroll?

SENATOR JACKMAN: The people who are selling you the goods. There are people in the store--

SENATOR DiFRANCESCO: Absolutely. You do that by the costs of the goods; by setting the price of the costs of the goods.

DR. DUNKLEBERG: Well, let me deal directly with that issue about, you make all this money on the goods, so why not lose money? I mean, what the heck?

SENATOR DiFRANCESCO: Oh, I didn't say that; I didn't say, "You make all this money on the goods." I said, "You make money on the goods, which is related to having the credit card available."

DR. DUNKLEBERG: All right. Well, in what sense? I mean, are you--

SENATOR DiFRANCESCO: Well, I don't think that Ed would want to eliminate Bamberger's charge cards.

DR. DUNKLEBERG: Absolutely not. I can suggest to you that if Bamberger's, or any retailer, unilaterally withdrew from the credit card market, their sales would take a beating. There is no doubt about it.

SENATOR DiFRANCESCO: That is the way we live.

DR. DUNKLEBERG: Yes, that is the way we live. Also, if they decided to run their stores without lights, they would probably take a beating there.

SENATOR JACKMAN: Wouldn't you agree that people, when they have a credit card, will go in and buy something, even though they may not even want it? But, something is on sale, and they've got their credit card, and they buy it. Let's not kid ourselves. My wife will go to Bamberger's-- When she went out for curtains, she came back with blinds and everything else. She said, "They were on sale." You know, everything is on sale, and then the credit card comes out. You know, on sale.

SENATOR O'CONNOR: She couldn't afford not to buy them.

DR. DUNKLEBERG: But, having done that--

SENATOR JACKMAN: Yeah, she couldn't afford not to buy them.

DR. DUNKLEBERG: That's right. My wife saves me money that way all the time.

SENATOR JACKMAN: Yeah, me, too.

DR. DUNKLEBERG: But, on the other hand, when she saves me money on those blinds, then she can't, tomorrow, spend any more money.

Now, let me ask you to just look at the industry a little bit larger here for the moment, all right? Everybody in the industry is offering a credit card service, just like everybody offers all these other services, including, you know, lighting, and whatever else -- parking, and things like that. What I would like to suggest to you is that having credit available doesn't really change the amount of spending you can do. Income drives your spending. All the credit does is change the timing. For example, if you want to buy a car, you have two choices. You can start now, put whatever amount of money you think you can afford per month into a savings account, and earn now that deregulated 5-1/2-- We don't know where that is going to go. There are fees now for those small accounts, by the way. My wife had an \$18 account she forgot about, and they charged her \$9 a year to maintain it. That was painful.

SENATOR LESNIAK: Don't raise that issue; that is for another day.

DR. DUNKLEBERG: I think that is very legitimate. I have no problem with that. She finally went down and closed it. But, anyway, you have the choice of putting "X" dollars per month into a savings account until -- I don't know how many years it will take you -- you can buy the car. All right? So, you are still putting that money away--

SENATOR DiFRANCESCO: You're saying we're not buying any more than with a credit card.

DR. DUNKLEBERG: You are not spending it. Now, instead, you can borrow the money and make the payments to the lender. There is a difference between the lending and the borrowing rate, but it is your income that determines what that monthly payment can be. Once his wife goes and buys all that stuff, then they have to pay for it. You can't buy something else. Spending is driven by income.

SENATOR DiFRANCESCO: She would not have bought all those things were it not for the fact that she had a credit card.

DR. DUNKLEBERG: Well, I suggest that there is no evidence in this country that suggests that people spend more and save less. In spite of everything you hear about all the savings rate problems, that is an accounting problem. We counted a car as total consumption the year you buy it, and it's not. It's an asset. You take money out of the bank -- dollars -- and convert it into another asset. If you buy some domestic car, it may not be such a great asset. I don't know; that is another problem, right? But, there is no evidence that the savings rate has been affected. Your income drives your spending. What you want to do is buy when it is worth most to you and, of course, it is better to buy the car today so you can get to your job; you don't have to call taxi cabs. I mean, it pays off to be able to do that. Even if you have to finance it at a fairly high rate of interest, it pays off. That is why people do these things. They are not just kind of suckered into doing these kinds of things, and then they spend forever.

You know, our spending is limited in the total by our income. That means that for this industry, there are no extra sales coming in with extra profits to pay for this credit function. We can come back and debate that a little bit, but you have to take a bigger view of that.

SENATOR DiFRANCESCO: Well, I avoided all the economics courses at college, so I really can't argue. You're probably right, but I would have to disagree with that. I can't believe that you're telling me that they would sell, given the same market--

DR. DUNKLEBERG: Yes?

SENATOR DiFRANCESCO: --you know, advertising and a lot of other factors, without the credit card, as much as they do with it, because of the impulsive--

DR. DUNKLEBERG: But, my impulse at Sear's is money I can't spend at Ward's, or my impulse at Bamberger's is money I don't have to spend somewhere else. One person's impulse sale is somebody else's loss at another time, because--

SENATOR LESNIAK: Is that saying retail spending is--

SENATOR DiFRANCESCO: Do you agree with his conclusion?

SENATOR LESNIAK: If he is saying spending-- If he is limiting it to retail spending, I would disagree.

SENATOR DiFRANCESCO: Twenty-five percent of it is always carried on.

SENATOR LESNIAK: If you are limiting it to retail spending, I would disagree. If I don't spend it now, I could spend it somewhere, but not necessarily to the merchant. I may decide to take a vacation; I may decide to go out drinking.

DR. DUNKLEBERG: Yeah, well, that's right; that's right. We may change--

SENATOR DiFRANCESCO: If you save the money every month, you may use it a lot--

DR. DUNKLEBERG: We may change how we spend the money, but, then again, that just means different kinds of retailers. That means the travel agent as a retailer, you know, gets the business.

SENATOR LESNIAK: Right.

DR. DUNKLEBERG: But there is not this extra layer of money somehow lying out there that we can attribute to the credit function. So, therefore, you have to go back to thinking about it having to stand on its own two feet, in a sense. It is particularly important because it is about the only service a retailer offers that is not available to everybody who comes through the door. So, it becomes particularly important that it be priced correctly.

Everything else is available -- all the sales personnel, all the services. You know, whatever is offered is available to everybody, except credit. It is the one service

that has to be given on a discriminatory basis. I buy that, I mean, economic discrimination. You can only make good decisions about it. It was suggested earlier that these retailers and the banks are foisting these cards off. Boy, they are not doing that. One bad account wipes out a lot of good work. I think retailers are probably turning down -- and you can check them; they can give you turndowns -- 60% or 70% of their applicants. They are very careful about screening them. They don't want to put bad people on the books because you can't make any money with bad accounts.

SENATOR DiFRANCESCO: I think it is mostly banks that send out the credit cards.

SENATOR JACKMAN: Usually the one who are getting credit card inquiries are the ones who already have credit cards, and they know about it.

DR. DUNKLEBERG: Yes.

SENATOR JACKMAN: You know, they have an industry out there-- I have a bank card with a gold card, a silver card, and a bronze card. That's a lot of boloney.

SENATOR LESNIAK: The neutron card is next.

DR. DUNKLEBERG: All right. What that all suggests is, when you look at this kind of an issue, you've got to consider the fact that there are all these other costs over here that haven't gone down. They have nothing to do with the cost of money. They only continue to rise. When you focus only on this interest rate thing, you are really missing the boat.

You know, there are lots of other businesses, for example, retail auto sales, where the interest cost components are very large because they fore-plan all that. But, we are not going to think about indexing the price of cars to the prime rate. Let me also suggest to you that funds are not kind of borrowed on a 30-day basis by anybody, I don't care who it is. You don't finance these receivables, or your business, by

borrowing every 30 days. What you do is borrow some short term and some long term; you try to lock in good deals. Right now, for a lot of banks and retailers and other financial institutions, they have a lot of less expensive bonds coming due, and they are having to refinance them at long-term rates that are much higher than they had before.

So, the cost of funds is not just what short-term rates look like, because that is not the way any business -- as most of you probably know -- finances its operation. So, that is very slippery to think about, the cost of funds even behaving that way.

SENATOR LESNIAK: So, by tying the cap into any particular market rate is not particularly -- may not have any reasonable or rational relationship to the cost of the credit.

DR. DUNKLEBERG: Absolutely. In fact, I would like to give you testimony by Martha Seager (phonetic spelling), who is a member of the Board of Governors. She covers that very well. Her testimony--

SENATOR LESNIAK: The Board of Governors of what?

DR. DUNKLEBERG: Pardon?

SENATOR LESNIAK: The Board of Governors of--

DR. DUNKLEBERG: The Federal Reserve Board -- the Federal Reserve System. She testified on some of the bills at the national level, and this is a very good piece of testimony that you might like to have.

SENATOR LESNIAK: We would like to have it for our record.

DR. DUNKLEBERG: The variable rate ceiling has--

SENATOR JACKMAN: I would like to ask one question. I notice there is no charge for the first 30 days when buying a product in Bamberger's. In other words, there is no charge. They couldn't afford everybody coming in and taking 30 days credit.

DR. DUNKLEBERG: Well, they probably couldn't afford it.

SENATOR JACKMAN: You better believe they couldn't afford it.

DR. DUNKLEBERG: It would certainly raise costs for them, and they--

SENATOR JACKMAN: It would, wouldn't it?

DR. DUNKLEBERG: --have got to get it somewhere. Remember, the bottom line--

SENATOR JACKMAN: Right.

DR. DUNKLEBERG: The retail industry, or the bank industry, when they are competing for funds and capital with all the other industries, if they don't give as good a rate of return -- a competitive rate of return--

SENATOR JACKMAN: If they could get the same amount of people coming in and paying cash, they would prefer the cash, wouldn't they?

DR. DUNKLEBERG: They would love it.

SENATOR JACKMAN: The proof of that is, today you have two prices when you buy gasoline -- one for cash and one for credit. Is that true?

SENATOR DiFRANCESCO: Of course it's true.

SENATOR JACKMAN: Well, all right.

SENATOR DiFRANCESCO: What about the payment in cash within 30 days? If they were guaranteed they were going to get it within 30 days -- you mean they wouldn't love it?

SENATOR JACKMAN: Well, they are giving you no charge for 30 days.

SENATOR DiFRANCESCO: When Ray sends out a bill, he is happy when he gets it within 30 days.

SENATOR JACKMAN: You know, there is no charge for 30 days.

SENATOR DiFRANCESCO: Right. Well, you're saying they are going to lose money if everybody pays their bill in 30 days.

SENATOR JACKMAN: No, I'm not.

DR. DUNKLEBERG: No, he said if everyone did that--

SENATOR LESNIAK: I just take a credit against a retainer.

SENATOR JACKMAN: See, you're a Republican, and you're distorting my Democratic view again. (laughter) I didn't say that.

DR. DUNKLEBERG: Let me review, just real quickly, the problems with any kind of a variable rate type format. One, of course, we just identified. The fact is, it is probably not the right rate. The second thing is, it is only half the cost. So, you've got a situation now where that rate has come down like this (demonstrates) -- and it has, a long way from 21 to 9. For the prime, or whatever rate you pick, they have all come down. The Treasuries have come down from 16 to 6. But, the other costs have gone just like this (demonstrates), and they are up there, and they just haven't gone anywhere.

If that is half the cost, why should we index to-- That is going to create a major problem. You also have compliance costs. There is a Federal law about telling people about changes in rates. All right? So, the rate has to change all the time. Texas has one of these laws, and it's terrible, because they also have to keep all the balances separate. So, the retailers, every time the rate changes, have to go out and reprogram everything. They have to give you a one-pager that says, "Well, if this balance went out at this rate, and this balance went out at this rate--" The disclosures are very complicated, hard to understand, and--

SENATOR LESNIAK: I'm sorry to interrupt you, but does that affect the price of the actual good itself?

DR. DUNKLEBERG: Well, that is what I am trying to suggest. This is a whole new block of costs -- to mail all this stuff out, to reprint all the forms, to get rid of all the ones you already had done, to reprogram the computers. So, that is a big chunk of cost that always has to fall-- The consumer pays everything. We're kidding ourselves if we say

consumers don't pay. There is no kind of infinitely deep pocket out there that we can reach in. It's us--

SENATOR LESNIAK: As long as there is a competitive market.

DR. DUNKLEBERG: It is a question of who is going to pay, which consumers might be paying.

SENATOR LESNIAK: And how.

DR. DUNKLEBERG: And how -- what form they are going to pay in. That's right. That is the only way.

Now, there is an awareness problem, too. Consumers lose track of what the rate is. They don't even know what-- "Well, today I don't even know what is going on with the variable rate."

SENATOR DiFRANCESCO: Well, wouldn't you suggest there is a lawyer's problem even with a fixed rate?

DR. DUNKLEBERG: There is, but what you'll see is-- Since truth in lending, the percentage of consumers -- and we can get you the data on this -- who know what the APR is -- and everybody has to use an APR -- at least has gone way up. So they know the APR. They can't always translate correctly, as you pointed out, Senator. You know, they think 18% is \$18, which means they think the price of credit maybe is higher than it really is, but nonetheless, the awareness is way up. But there are just other complications -- how or where, how car work-- I don't know how that goes.

Let me make another point about the rate ceiling, or the variable rate problem. First of all, any of the formulas I have seen would give us a very low rate now. You know, six points over Treasury is 12; eight points over double Treasury is 12. Any of these things would take us down to a rate which I think, if you look at the numbers I have here on the economics of this, you know, there is no way. It would barely cover the cost of funds, if that, for the big lenders -- not the small ones -- and, of course, then all the other costs

would have to be covered somewhere else, and we know where they get covered. They get covered in the cost of merchandise or restrictions on availability or all those kinds of things.

SENATOR LESNIAK: So, you're saying the proposals we have before us can result in only one thing, and that is an increase in the cost of the goods to the consumer.

DR. DUNKLEBERG: Yeah, and a cut in availability, because look at this point: Suppose you come in--

SENATOR DiFRANCESCO: Who said that?

SENATOR LESNIAK: I did. He did, and so did I.

SENATOR DiFRANCESCO: You said it, or he said it?

SENATOR LESNIAK: We both did.

DR. DUNKLEBERG: I'll say it. It will raise costs--

SENATOR DiFRANCESCO: He is going to say that all of these proposals are going to raise the cost of goods at Bamberger's, if they affect this.

SENATOR LESNIAK: That is what I heard him say.

SENATOR DiFRANCESCO: Well, let me ask you this question then, since you are--

DR. DUNKLEBERG: Could I make one more point?

SENATOR DiFRANCESCO: Well, no. I want to ask-- You keep interrupting him; let me interrupt him.

SENATOR LESNIAK: I heard him say that. Am I stopping you? Senator?

SENATOR DiFRANCESCO: No, you're not. In what other states is Bamberger's located?

DR. DUNKLEBERG: I can't answer that; I don't know.

SENATOR DiFRANCESCO: How many, roughly, all of them -- all the states?

DR. DUNKLEBERG: That I don't know.

SENATOR DiFRANCESCO: How many other states have ceilings on interest rates for credit cards?

DR. DUNKLEBERG: I'll have to give you the list. There are 17 states that have full dereg. Another bunch of them have 21 caps.

SENATOR LESNIAK: I think the relevant question, Senator, if I may--

SENATOR DiFRANCESCO: Why are you interrupting me now?

DR. DUNKLEBERG: Most of them-- Virtually everybody is at--

SENATOR LESNIAK: Senator, let's get to the point.

SENATOR DiFRANCESCO: You're saying it is irrelevant now.

SENATOR LESNIAK: Senator, let's get to the point.

SENATOR DiFRANCESCO: I am trying to get to the point.

SENATOR LESNIAK: Well, then, why don't you ask him, "What other states have the types of caps that are in these proposals?" and then compare--

SENATOR DiFRANCESCO: You are not letting me get anywhere with him. Let's find out what other states have first.

SENATOR LESNIAK: Go ahead.

SENATOR DiFRANCESCO: Do you know what other states have? If so, make it available to us. Does anyone have a 12% cap -- any of the states?

DR. DUNKLEBERG: Well, I can't answer that, because there are a couple--

SENATOR JACKMAN: Arkansas.

SENATOR DiFRANCESCO: Somebody said before there was a 12% cap.

SENATOR JACKMAN: Arkansas, it is in the report.

DR. DUNKLEBERG: The problem is, there are variable rates, and I don't know where exactly they are. Someone who is right on top of it may be able to tell you.

SENATOR DiFRANCESCO: Does anybody know the answers to any of these questions? (At this point, several members of the Committee and witness all speaking at once.)

SENATOR DiFRANCESCO: Arkansas is five points over. Who else?

DR. DUNKLEBERG: Texas is-- What is Texas? Somebody help me out on this.

UNIDENTIFIED PERSON FROM AUDIENCE: Two times the six-month T-bill rate.

DR. DUNKLEBERG: Two times the six-month T-bill rate. Those are our two real problem states.

SENATOR DiFRANCESCO: Those are the only variable states.

SENATOR LESNIAK: I think what we ought to do, Senator DiFrancesco, if I may--

SENATOR DiFRANCESCO: Go ahead. I'll listen to you. Go ahead. What do you want to do?

SENATOR LESNIAK: --is ask the Committee Aide to make some inquiries in terms of the State of Arkansas and the State of Texas, with regard to--

SENATOR DiFRANCESCO: The price of goods -- the price of shoes, the price of underwear.

SENATOR LESNIAK: --how those rates have affected the price of -- in terms of how those rates have affected--

SENATOR DiFRANCESCO: Compared to New Jersey.

SENATOR LESNIAK: Absolutely.

SENATOR DiFRANCESCO: All right; okay.

DR. DUNKLEBERG: I will give you a couple of studies where a bunch of academics have run out and very carefully studied this issue. In particular, I can give you, very quickly, a study from Arkansas, which essentially shows that if you -- and Arkansas had 10% for a long time, and that is when we did the study, 10% versus, say, 18% in Texas, at the time-- If you wanted to buy a TV on credit and pay for it, say, in 12 months, you would pay about the same price in both states. All right? But what you had was a low cash price for the TV with an APR of 18 in Texas, and a high cash price and a 10% APR in Arkansas. That is very simple. That is just about the way it comes out. So, they were high cash prices.

Now, that wouldn't matter if everybody had credit, because then we wouldn't care. What you care is, "What am I

paying for this TV, which I am going to pay for over 12 months?" or whatever. But the point is, particularly in Arkansas with the low rate ceiling, credit availability was really hampered and so, in fact, a lot more people in Arkansas than any other states couldn't get credit. They had to pay cash. They paid high cash prices. I'll tell you what else they did. Since they couldn't get credit, they would lease cars. They rent furnished apartments; they rent furnished homes; they rent to own. They use pawn shops more than anybody else in the surrounding states, and they borrow from people at work — and I'll leave that to your imagination — far more than people in surrounding states.

That rate ceiling cut availability, but you can't keep people from getting credit. You just force them to go to all these other more nefarious--

SENATOR JACKMAN: Shylocks.

DR. DUNKLEBERG: I couldn't have said it better -- and more expensive ways to get the services they want. To get a washer and drier in your home is just as valuable to you if you do 10 loads a week if you are poor as if you are rich.

SENATOR CARDINALE: Doctor, may I interrupt you for a moment.

SENATOR LESNIAK: Wait a minute, Senator Cardinale. Senator DiFrancesco, are you finished?

SENATOR DiFRANCESCO: Well, I want to know what you are going to provide to me -- who is going to provide it -- what he is going to provide to me, and what he is going to do.

SENATOR LESNIAK: Senator DiFrancesco, what I am going to propose is that I will go to Houston, Texas, and you go anyplace you want in Arkansas.

SENATOR DiFRANCESCO: Have you been to Arkansas?

SENATOR JACKMAN: I can get the figures overnight.

SENATOR LESNIAK: I think, Doctor, we would like to see any studies you may have.

DR. DUNKLEBERG: I would be glad to provide you with a bibliography and an index to all that junk. I'll send them so you can kind of just find what you want. There has been a lot of stuff. Lots of people have been working on this for a long time now. We have much to offer.

SENATOR DiFRANCESCO: I really did have another question.

SENATOR JACKMAN: Go ahead.

SENATOR DiFRANCESCO: This is basically for Ed, because this statement refers to Bamberger's, right? But, if you can answer me, please answer. I believe his answer before was it was 19.8% -- the credit card interest rate at Bamberger's. Is that uniform throughout the country? Does Bamberger's charge 19.8%?

MR. GOLDBERG: No.

SENATOR DiFRANCESCO: Why not?

MR. GOLDBERG: Because we are located in five different states.

SENATOR DiFRANCESCO: So, in the states where they have ceilings of variable rates you must comply with them?

MR. GOLDBERG: Yes, you must comply.

SENATOR DiFRANCESCO: Because you do business in that state.

MR. GOLDBERG: Correct.

SENATOR DiFRANCESCO: That answers your question, by the way.

SENATOR JACKMAN: Yeah, but the interesting thing is, how many cards do they have out in Arkansas?

SENATOR DiFRANCESCO: No, that is not the reason I asked him.

SENATOR JACKMAN: That is very important. How many cards to they have in Arkansas and how many do they have in New Jersey?

SENATOR DiFRANCESCO: Five million, two hundred and eighty thousand.

DR. DUNKLEBERG: I think the issue you're raising is the one about, can you control the rates? The answer is, for retailers, yes; for banks, no, only if they are domestically chartered. The Marquette (phonetic spelling) National case, decided by the Supreme Court, said a national bank can export rates from wherever its place of business is, and you know what has happened with that. States with-- In fact, Texas and Arkansas, right now, have their banks moving out because they can't operate with those kinds of deals, and they are tired of having outside banks get their customers. So, they are moving out. The Seattle banks are having the same problem with their interest rate limitations. So what you find is that, in fact, if you restrict your domestic banks-- You know, it would be nice if they could serve with 15. We all want lower prices. Hey, you know, I mean, we would love it. But, the point is, if they could, they would. If they were making money at a lower rate, they would. So why do the outside banks win? The answer is, you have to really restrict availability at 15 versus 18 and 18 versus 21, and so on. That is what is going to happen. So, you can't control those rates.

SENATOR DiFRANCESCO: You don't think we should have any ceilings at all?

DR. DUNKLEBERG: That is correct. My view is, there is so much competition out there. I think the retailers would be in here arguing with you just as hard if you tried to control the price of tires, or any other service or commodity they tried to provide. I mean, why pick this one? They are so competitive, and they provide all these different services and commodities. They compete like the dickens, and suddenly we say, "But they are not being competitive here." It doesn't make any sense. If you look at the cost of doing this business, why I think it is pretty safe to say that they probably are being competitive. What we have had is a 10-year history of rate ceilings that were always too low. You know, we have never really been able to kind of catch up to things.

Now, competition is working. You do see different rates offered. Within retailers you see different rates. Across lenders you see different rates and different terms, and that is a good deal for the consumer, particularly for what we characterize -- we have a lot of words for them -- as the lower income, or whatever, who are a lot of different people -- elderly people, young people who are just starting life and don't have a job. That is the way these people get access to credit. You know, the banks in Seattle will not give you a bank card unless you have established a credit record. Now, how can you establish a credit record if you can't get credit? That turns out to be kind of a vicious circle and, of course, you just establish credit with a Shylock maybe, or someone else, but he doesn't talk to TRW, and he doesn't really help you out very much.

SENATOR LESNIAK: Or with a bank outside the state.

DR. DUNKLEBERG: Pardon?

SENATOR LESNIAK: Or with a bank outside the state.

DR. DUNKLEBERG: Yeah, or you can go with somebody, in this case, outside the state. I think you should keep in mind, again, that these banks have to make-- It is savers' money they are putting out there, you know. I took you through this \$200 account to show you how you would lose money on that. Do you want to make credit unions put savers' money into those kinds of investments? The money that goes out on a credit card is depositors' money, even for retailers. They don't take deposits -- yet. Well, that is another thing.

They go into the financial markets and borrow the money, but ultimately it comes from savers again. It comes out of pension funds, and so on. It is the savers' money we are talking about here and, by the way, interest income has been the fastest growing component of consumer income for the last 10 years. We talk about protecting consumers. You know, what you are doing by mandating rates here on loans, is determining

the rate of return the depositors can make, and I don't think that is a business we want to be in either, and we shouldn't be in. We can't reg one side without regging the other. Even though we pretend they are deregulated, if you can't make a loan above 10%, you just regulated savings rates. I don't think we want to be in that kind of a business.

I think we can trust our financial institutions -- broadly speaking -- whoever they are, to make very judicious decisions. They watch who gets credit from new people. They give you only a small limit, and if you earn a good credit rating, they increase your limit. They watch these problems; they have to. Their experience has been very good. I think bad debt losses only average about 1-1/2% of receivables for the retailers, at least for the very large ones; probably a little larger for others. People say that is really bad, but, look, any production process has things that don't get stamped outright. I mean, there is a loss rate, if you will, on anything we do, and you get the stuff that gets culled out. You know, we can't get them all. If you could identify everyone who wouldn't use their credit correctly, obviously we wouldn't loan to them, because it is a big loss. But now we can't do that, and we have to try to get that down.

You know, if there is a group of 100 consumers here, history tells us that five of these kinds of people will go bad, but we don't know which five. We have to deny credit to all hundred -- not just the five.

SENATOR JACKMAN: One, two, three, four, five (apparently counting members of Committee) (laughter)

DR. DUNKLEBERG: That's right. But, that is the problem.

SENATOR LESNIAK: Senator Cardinale?

SENATOR CARDINALE: Doctor, you are beginning to address an area of concern to me. As I look at your charts -- I am very impressed with your presentation; I don't mind

telling you that -- in your first chart you talk about selected factors. One of the major factors appears to me to be a factor in any credit transaction -- the loss ratio.

DR. DUNKLEBERG: Yes.

SENATOR CARDINALE: And, that has been left off your cost factors for making these loans. Now, that gives me a concern that perhaps our rates may be artificially high to subsidize bad credit risks, at the expense of those persons who are not bad credit risks. It would seem to me, particularly in the retail sales area, such a practice would be, what I might consider counterproductive competition, or competition which favors higher volumes of sales, which retailers would normally want to be engaged in, but really charging the costs of that higher sale to those people -- many of them probably low-income people, too -- who do, in fact, pay their bills, and cause higher prices, really, in effect, to be paid by many of the most credit-worthy people.

The reason I am led to worry about that concern, is that in all of these other areas that have been presented by Senator Garibaldi in terms of lower interest rates -- boat loans, house loans, car loans -- it has been my experience that the credit checks which are used to determine whether those loans are going to be granted or not, are far more stringent credit checks than are determined to be needed in giving out a retail credit card in a place like Bamberger's, or any -- I don't want to single Bamberger's out -- but almost anyplace.

I would like your comment on that as a factor in the overall rates.

SENATOR JACKMAN: Gerry, may I-- I just want to add one point to that. We know -- I think everybody in this room would know -- that we have to pay for the cost of goods because of shoplifting. You know and I know there is a billion dollar loss in shoplifting. Now, somebody has to pay for the billion that somebody stole, and it has to be the people who are buying

the goods. They don't have insurance for a billion dollars. You know that, and I know that. So, the costs of those goods go up automatically. The same here with the loss factor with the credit cards. They have to balance that thing off. At the end of the year, they don't have a loss column. They want to make sure they broke even, that people paid their bills. Otherwise, they are out of business; they go into bankruptcy.

The same with the shoplifting. You know what kind of shoplifting takes place today. I'll guarantee the cost has to be maybe 2%, 3%, 4% that you are putting on merchandise I am buying and paying cash for. I know that because you -- not you, now, I am only kidding when I say that -- but somebody who you knew stole the stuff. (laughter) That may sound facetious, but I don't mean to be. It is the same as the man sitting alongside of you has to pay into a fund for lawyers who stole money from their clients-- He has to pay into a fund to pay back the guy who stole. That is the same basis as here.

SENATOR CARDINALE: Now, if the Bar Association was establishing a credit policy based on rewarding lawyers who steal, then I think we ought to. But, they are not doing that. That is a protective mechanism.

SENATOR JACKMAN: That is what we are talking about here -- protection.

SENATOR CARDINALE: No we're not at all. We're talking about something entirely different, and I would really like to hear his answer to the question, Chris, because I could pretty well predict what yours was going to be.

DR. DUNKLEBERG: Nonetheless, let me borrow some of the Senator's thunder for the moment. We can do something about this theft, and that is, we can hire a lot more people to stand around with uniforms and watch. Now, what we do is, we try to choose the least cost way of handling it. It would be very expensive to drive shoplifting to zero, and consumers would end up paying more overall than they would if we let some

shoplifting occur. So, we try to take the least cost route.

Now, we could also spend a lot more money doing credit investigations, but the payoff isn't there. The total cost would be higher to try to do that than what we could effectively eliminate. I don't care what form of credit you pick, including the U.S. government, you know, you get some defaults. You can't help it. The government defaults in a neat way, but, nonetheless, you can't eliminate them all. So, what the companies try to do, being very competitive, is-- They try to do the right amount of credit checking which balances the losses you would expect to get, versus the cost of trying to screen and find out who is a bad debt and who isn't. That, I think, makes very good sense.

Now, let's talk about the size of those numbers.

SENATOR CARDINALE: Just a moment, right on that point. Would you say, from your experience and your knowledge of this field, that the loss ratios with respect to home loans, car loans, boat loans, are on a par with, or greater than, or less than the loan losses, in effect, in retail credit card purchases?

DR. DUNKLEBERG: Well, that depends on what you want to look at. But, I would say offhand that those losses, in the last five years, have probably run more than the retail losses. In fact, if you look at-- Let's take the biggest retailer, because I have some numbers for the largest.

SENATOR CARDINALE: Then they are doing a lot more credit checking--

DR. DUNKLEBERG: They are doing a worse job.

SENATOR CARDINALE: --and it is counterproductive.

DR. DUNKLEBERG: No, it isn't; no, no.

SENATOR CARDINALE: They should do less credit checking and, thereby, they would have--

DR. DUNKLEBERG: It isn't counterproductive. All I'm saying is, the economic factor-- The losses are bigger on a

big loan. That is why you work harder to check on that. You are willing to make a trade-off. You don't want to spend \$500 checking out a \$200 account, because that doesn't make any economic sense.

Let me just give you some numbers to put it in perspective, since I happen to have those for Sears, which is a fairly large retailer nationwide. Their average losses have run less than 1% for the last 40 years. I mean, they grant credit to lots of people. Their penetration in the low-income groups is very high, and they still only run up 1%.

SENATOR CARDINALE: With respect to what you had to say before you reached Sears, could you provide this Committee with some documentation of that answer?

DR. DUNKLEBERG: Which answer, now, how people decide -- or what the loss rates were?

SENATOR CARDINALE: That you believe car, home, and boat losses exceed the retail loss ratios for the last five years.

DR. DUNKLEBERG: Sure, I can do that.

SENATOR CARDINALE: I believe that information would allay my concern about this point.

DR. DUNKLEBERG: Okay, fine. I think we can easily show you both, probably for the State, and certainly for the nation.

Okay. How am I doing on questions here?

SENATOR JACKMAN: Good. You did good.

SENATOR LESNIAK: Doctor, you are doing excellent, but my stomach is not. Senator Cardinale, can you complete your inquiry, so that we can--

SENATOR CARDINALE: I'm finished. I thought you realized that.

SENATOR LESNIAK: Thank you very much for your very lucid testimony.

DR. DUNKLEBERG: All right. I probably didn't say everything I wanted to say, but I appreciate the opportunity.

SENATOR JACKMAN: You were a good witness.

SENATOR LESNIAK: No, on the contrary, I think you said everything that I needed to hear.

We will be back at 20 after one.

(RECESS)

AFTER RECESS:

SENATOR LESNIAK: I just saw Don Nowicki from United Counties Trust Company. Don, do you want to come up and start the afternoon session? We are going to go by who is here, rather than the order on the witness list. So, Dale, will you--
D O N A L D S. N O W I C K I: I have a prepared statement, Senator. I will leave some copies with you. I will refer to it. It is rather brief; it should take less than five minutes.

For the record, I am Donald Nowicki. I am Senior Lending Officer and Senior Vice President of United Counties Trust Company. I have here with me our Vice President in charge of our Charge Card Department.

For consumers, credit cards are a simple, convenient, and efficient means of payment and credit access. I think we all realize that, and acknowledge it. When a consumer receives a card, he gets more than just an open-ended, unsecured line of credit. He really gets a payment device. For some credit card users, it is really not a loan, but rather a convenient service, which is regarded as valuable and well worth the cost. I might add that the use of the card is entirely voluntary by the card holder. The terms of repayment are flexible, and are largely at the discretion of the card holder.

A consumer carrying a bank card can make a series of purchases of goods and services at different locations and,

when all is said and done, he gets one bill at the end of the month, which he can conveniently pay. He gets a list of all the purchases he made by the name of the retailer.

The card offers very many services to the card holder. For example, he can use it for identification purposes. He can use it to cash checks; he can use it to rent cars; he can use it for hotel accommodations. And, depending upon the type of car that the consumer uses, he or she also receives protection for such things as stolen luggage, hotel theft, traveler's emergencies, and lost credit cards.

Additionally, banks are now making available to that card customer -- from independent vendors -- new services, such as car registration, common carrier travel accident insurance, insurance clubs, discounts on air fares, car rentals, and guaranteed hotel accommodations. The value of these services is considerable, because they represent a better card product at the same price. This is the economic equivalent of a price reduction. At United Counties Trust Company, for example, just recently we increased our common carrier insurance from \$100,000 to \$250,000, at no additional cost to the card holder.

SENATOR LESNIAK: What is that?

MR. NOWICKI: Common carrier insurance protection is, if you fly on an airliner, and that airliner crashes, you have coverage, through the card, for \$250,000.

SENATOR LESNIAK: Is that just airlines?

MR. NOWICKI: Airlines, railroads, railways, buses, things like that, where it is a common carrier. These services and protection are provided to our card consumers whether the card is used as a payment or a credit mechanism. Moreover, the card holder determines whether, and to what extent, the credit feature of the card service is employed.

We talked about the grace period earlier, and I would like to reemphasize that. Our card holders have the option of paying account balances within the grace period. Normally, it

is 25 days from billing, and could be as high as 45 or 50 days from the actual date that they used the card for a purchase. They don't incur any finance charges if they pay within the billing period. Within our system -- this is United Counties Trust Company -- over 25% of all our card holders pay their account balances in full each month. This represents 36% of our credit transactions, so a large number of our customers do pay their cards back in time before incurring any charges.

These card holders, as a result, at no direct cost, receive free credit from the date of purchase. Because of the existence of this great grace period, the effective annual rate of interest charged to card holders who incur a finance charge is considerably less than the advertised or disclosed annual percentage rate.

At United Counties Trust Company, we presently offer MasterCard and Visa at an annual percentage rate of 18%. The actual yield to us, taking into effect the grace period, is approximately 15%. This holds up with other testimony that has been brought forward here today. Let's express it in other words: The average real price of credit to our bank's customers as a group is 15%.

This interest-free grace period, as well as the numerous other convenience services, or features, is unique to the credit card market, and is indicative of the valuable service efficiently provided to consumers by the credit card industry.

These insights into the actual yield creditors achieve when the grace period is taken into account should play an important role in any decision or consideration of the issue of credit card rates.

While some say the public is complaining about credit card costs, the public has increased its use of bank-issued credit cards to record high levels. I might add that a review of our files -- this is our own internal files -- for the past

five years, revealed that only five complaints were received with respect to the rate charged by United Counties Trust Company to its more than 100,000 card holders. I might further add that these five complaints have only been received in the last four months. So, prior to 1985, and going back five years, we had no complaints with respect to rates. I would assume the five complaints we did have were kind of a response to the advertisement of this issue in the papers.

The consumer is well aware of the unique attributes of the card and the current interest rate levels. Despite the availability of alternatives -- which were discussed earlier -- each year, since inception of this product, the number of card holders has increased significantly. At our bank, it has increased more than 35% in the last five years. It is obvious that the consumer finds the card very useful, and a valuable tool in the conduct of his or her everyday business and personal financial affairs.

In conclusion, the credit card market can best be characterized as a highly competitive industry providing convenient, valuable, and efficient service to consumers at prices reflecting industry costs. The continuing growth of the industry indicates that, on balance, the value of the card is reflected in current rates. Placing rate limits would be detrimental to the bank card industry and the consumers.

Earlier there was discussion that the rate should be somewhere around 11-1/2% or 12%. I can tell you this: If we had to operate at an 11-1/2% or 12% rate, the number of cards out there would be constricted severely, and we would have to start making decisions about the value of that particular type of business in our overall operation.

Having rate restrictions would reduce competition, would limit credit availability, and would narrow consumer choices. In the end, retailers and suppliers would experience a sales decline which would have an overall negative effect on

the economy of New Jersey. Permitting credit card interest rates to be dictated by the competitive market provides convenient service at the lowest possible cost to the largest number of people.

It is our hope that this Committee will be receptive to the testimony presented today, and will recognize that rate restrictions serve only to inhibit a free market enterprise condition that is already operating well.

I have nothing further to say. If you have any questions, I will gladly try to answer them for you.

SENATOR CARDINALE: Do you advertise your credit card rates?

MR. NOWICKI: Yes, we do. We advertise in direct mail pieces, and we advertise in statement stuffers along with our checking account statements, our savings account statements, and things of that nature. We don't do newspaper advertising. We find that newspaper advertising is not as effective as direct mail. We also do advertising in the sense that we do a side-by-side kind of an appraisal. When we approve a loan in our institution -- let's say an auto loan, a home improvement loan, or another type of loan -- a mortgage loan-- When we evaluate that credit, we also evaluate whether there is a credit worthiness for a charge card offer -- a preapproved card -- on that basis, but only after we have done our proper credit checks.

SENATOR CARDINALE: Do you find any difference in your loss ratios between the various types of loans?

MR. NOWICKI: Yes. Our loss ratio -- and I don't have the exact numbers-- Our bank probably has one of the best loss ratios in the State of New Jersey in terms of overall loans. I would say on a portfolio of over \$400 million -- that is the whole portfolio of all loans in our bank -- our losses were about a million, two hundred thousand. These are gross losses before recoveries -- before we recovered on some of the

losses. About \$700,000 of that was in the charge card business. The other \$400,000 or \$500,000 of losses we had was through the commercial loan sector, the mortgage sector, and the consumer loan sector. So, the losses are significantly higher in this end of the business.

SENATOR CARDINALE: The losses are higher on the credit cards?

MR. NOWICKI: Yes, they are.

SENATOR CARDINALE: Okay.

SENATOR LESNIAK: Thank you very much.

MR. NOWICKI: Thank you.

SENATOR LESNIAK: Is Marleen Zakrzewski here?
(affirmative response) I should know how to pronounce that.

SENATOR CARDINALE: If you can't, who can?

M A R L E E N Z A K R Z E W S K I: My name is Marleen Zakrzewski, and I am the Vice President of the Credit Card Department with the Trust Company of New Jersey. I have handed you a copy of my testimony, and I have cut some of it out in the beginning so as not to reiterate what has already been said.

Back in 1980, the Trust Company had about four million outstanding in credit cards and employed six people to handle the operation. In 1981, when legislation eliminated most consumer loan interest rate ceilings, the Trust Company, as well as other New Jersey banks, began, once again, to issue credit cards to all credit-worthy people. Thanks to this action, my bank has tripled in outstandings and has doubled the number of employees.

Consumer advocates argue that credit card rates should be the same as rates on other bank loans because the credit card is a loan. The fact is, most credit card users do not equate the credit card with a loan. Over one-third, or 33-1/3%, use the service without ever paying interest. This is true of my portfolio also.

Secondly, credit card programs are more costly to administer than conventional consumer loans. With a typical consumer loan, a bank interviews the applicant, does a credit check, approves the loan, and then simply gives the customer a coupon book. Credit cards, on the other hand, involve a credit check approval, the mailing of a new card every 18 to 24 months, the monthly mailing of statements, and postage. The security measures needed and the possible liability to the issuing bank are peculiar only to bank credit cards.

A credit card is a much more flexible instrument than the typical consumer loan. It represents an open line of credit that may be accessed by a customer any time he wishes, anywhere in the world. It provides access to cash while traveling anywhere in the world, through branches and ATMs. It provides personal identification for hotel check-ins, car rentals, and check cashing. It provides flexibility in payment. A card holder may pay off his entire balance in full, or he may make monthly payments.

The average consumer uses his card 25 times a year at \$63 each time. Therefore, it isn't logical to compare a credit card advance with a prime rate loan, or even a home or auto loan. Credit card loans are also unsecured, so there is no collateral against which to take recourse should the loan go bad or if the card is lost or stolen.

The supply of credit card credit is intensely competitive. America was built on the competitive spirit. Banks allowed to determine their own rates on the services offered are abiding with the spirit of competition. Customers are free to shop around and choose the bank and the plan which best fit their needs. They are also given the option of financing their purchases or paying their balances in full.

There is no other service offered by a bank that has all the features that a credit card has. Therefore, how can anyone compare it to any other type of service?

Now, five years later, consumer advocates claim credit card rates are too high. Some Senators and Congressmen are saying that New Jersey consumers are being ripped off. I have yet to read an article stating that John Jones -- Hudson County resident, salary \$15,000 a year, former small loan borrower, now MasterCard holder -- says he is being ripped off or his rate is too high. Now, John Jones, the average consumer, has the same advantages and services offered to John Blue Blood.

SENATOR LESNIAK: Do you mean that Ray Lesniak gets the same thing that Gerry Cardinale gets? Is that what you are trying to say? (laughter)

MS. ZAKRZEWSKI: Exactly, even though your salaries may be different. He can take his family out to dinner; he can buy a new car; he can buy a new TV; he can do things that he couldn't do before. The only difference now between John Jones and John Blue Blood, is that he will take 36 months to pay, and Mr. Blue Blood will pay his bill in full.

Are you once again going to take away services that the bank can now afford to offer to the average consumer? The spirit of competition should designate rates. If consumers believe cards are too costly, they can choose alternative methods of payment or banks that offer lower rates.

Permitting credit card interest rates to be dictated by the competitive market provides convenient service at the lowest possible cost to the largest number of people.

SENATOR JACKMAN: I notice that the Trust Company has the highest rate of anybody in the banks so far on this list.

MS. ZAKRZEWSKI: Really?

SENATOR JACKMAN: Yeah. You're 19.8?

MS. ZAKRZEWSKI: Nineteen and a half.

SENATOR JACKMAN: Nineteen and a half, and they have 18 in all of the other banks.

SENATOR LESNIAK: Do you know why, Chris?

SENATOR JACKMAN: Why?

SENATOR LESNIAK: Because they are giving out cards to people who need credit in Jersey City, and they have a higher loss ratio because of that. But, they are also providing a service for those people.

SENATOR JACKMAN: I know. That is my company. I bank with the Trust Company.

MS. ZAKRZEWSKI: I know that. Sixty-five percent of our people are Hudson County residents.

SENATOR JACKMAN: How many?

MS. ZAKRZEWSKI: Sixty-five percent.

SENATOR JACKMAN: Thank you.

SENATOR CARDINALE: May I ask a question, Mr. Chairman?

SENATOR LESNIAK: Of course you may.

SENATOR CARDINALE: There was a suggestion made earlier that a two-tiered system might have some validity. One of the things we've heard is that on a small loan, the administrative costs are a high proportion of the total expense. Do you see any validity to the suggestion for a two-tiered system?

MS. ZAKRZEWSKI: Back in 1980, that is what we did have -- a two-tiered system. I see no benefit to it.

SENATOR CARDINALE: You don't think you could charge a lower rate on the larger loans?

MS. ZAKRZEWSKI: The larger is on purchases, rather than on cash advances, at least it was at that particular time, and it still holds true. The larger rate was on the purchases, but then you were being charged daily interest on the cash advances, so it worked out to be the same thing eventually, the way the law was back in 1980. It was 12%, but it was from the day the cash advance was posted. You were getting a free ride, so it worked out to be the same thing. If we went with those two things again -- with a lower and a higher -- it would work out to be the same thing.

SENATOR CARDINALE: I think what Senator Contillo suggested was, if an average balance reached a certain level -- let's say it was below \$1000 and above \$1000 -- there would be a different rate charged because of the obvious administrative expense being essentially the same, whether administering a \$10 loan or a \$1000 loan.

MS. ZAKRZEWSKI: But then your computer costs would be higher in setting up that particular type of a program.

SENATOR CARDINALE: Thank you.

SENATOR LESNIAK: Thank you, Senator Cardinale. Thank you, Marleen. Al Kish? Is Al here? (affirmative response) We'll take care of Jersey City first, okay, Chris?

ALEXANDER KISH, JR.: Thank you.

SENATOR LESNIAK: Al, this is rather lengthy testimony.

MR. KISH: I am going to shorten it.

SENATOR LESNIAK: I'm sure much of it is repetitive. Can you kind of summarize your perspective?

MR. KISH: Yes.

SENATOR LESNIAK: The complete testimony will be entered into the record.

MR. KISH: Right. My name is Alexander Kish, Jr. I am Vice President of First Jersey National Bank. We are headquartered in Jersey City, which is in Hudson County. I have been in the credit card business some 27 years. I have been an Advisory Board member of the American Bankers Association for a number of years, and have also served on the Operations Committee of MasterCard International.

I just noticed -- for your information -- in this morning's Trenton Times, an ad with financing at 4.9%. Of course, they don't say how much of that finance charge is buried in the cost of the car. It is kind of misleading.

I just want to support the comments of Dr. Dunkleberg this morning, because the numbers and the statistical data he

gave relates quite closely to our own operation. I want to point out particularly the rate that is always quoted -- the 18% rate -- as being a measure of what the account actually costs, because there are so many ways in which the accounts are computed. In one case, you may compute interest from the date of posting to the date the balance is paid off, which will give you the true rate that is being presented. However, in most plans, they provide a 30-day free period on new purchases. In some cases, that 30-day to 60-day period is always there on all new purchases. Sometimes it is only there if the account is paid in full each month. There is another variation to that. If you pay your account balance in full any month, the finance charges for that month are way up. As an example in support of the figures, we charge 18%. That is the rate we list. The agreement says the rate is applicable to that portion of the balance which is subject to finance charge.

The thing is, the entire balance is not subject to a finance charge, which causes that rate differential. In our case, we charge 18% and, taken from our exact figures, we net 15.37%. That is the exact amount we net, not the 18 that appears on the statement, or that is advertised.

Dr. Dunkleberg pointed out earlier this morning about the costs going down as far as T-bill rates and prime rate and so forth. But, there are other costs, which involve postage, telephone, credit losses, stationery supplies, and so forth. Our cost last year -- for the year '85 -- increased by 5.5%, so, although these other rates are coming down, our operational costs are going up. Our loss ratio-- The previous speaker mentioned their loss ratio. Ours was .9% -- under 1% -- on credit cards last year, which is a very low percentage.

I think, Senator, you asked a question earlier about boat loans, home loans, and open-end credit, or unsecured loans. I can tell you that open-end credit loss is always going to be higher than this other type credit, even if you

didn't get a credit report at all. The reason for that is, if you are financing an automobile and you have a charge card and you are short on cash, which one are you going to pay? You are always going to pay the automobile loan, because if you don't, your automobile is taken away from you, and you let the other one go. As a result of that happening, the open-end credit, or unsecured credit losses are always going to be higher. If you have a home, for instance, and it is a second mortgage loan, you are going to make that payment, because you don't want to lose your home, and you are going to let the charge card loan go. There is no way you can stop that from happening.

Earlier, Arkansas came into play. It is always mentioned. Congressman Schumer always plays that to the TV -- all the time. I had a couple other figures relative to that. The loss ratio in Arkansas was .43%, far below industry averages. Arkansas also declined 4.8% within its borders, and has further declined by 41.2% in its share of national revolving credit.

SENATOR LESNIAK: You're talking about that which originated within the State?

MR. KISH: Within the state, right. They're going down.

SENATOR LESNIAK: It has driven business out of the state?

MR. KISH: Yes, it has driven business out of the state. These figures are significant. If we duplicated them here in New Jersey, it would have a grave impact on our economy. If we were to clone Arkansas, the buying power of our consumers would be greatly reduced. Demands for goods and services would be affected, and this would eventually affect the employment. I don't know what the employment rate is in Arkansas, but looking at the numbers here, I would say their unemployment rate has to be much higher than New Jersey's.

The market evidence is unambiguous. As money rates have fallen, unregulated card credit has become more successful with consumers than credit which is subject to interest rate ceilings. That is not to say that consumers prefer paying higher rates, but it does suggest that other things must not be equal in the present case. The success of unregulated cards is due to the fact that credit is more readily available and is aggressively marketed by out-of-state banks. Consumers in New Jersey have overwhelmingly accepted offers from out-of-state banks at rates in excess of those now being offered by our own banks.

SENATOR LESNIAK: Al, could you indulge me in this? I would like to read two paragraphs of your testimony that I find particularly significant:

"There are 2,549,000 households in New Jersey, 1,435,000, or 56.3%, of which have bank credit cards." Chris, that answers your question about how many people in New Jersey have credit cards.

SENATOR JACKMAN: Yeah, and I was low.

SENATOR LESNIAK: Right. "Surveys that we had commissioned by an independent firm indicate that 70%" -- and that is the figure I have seen -- "or 950,000 households hold the credit cards of out-of-state banks which are not subject to New Jersey law. The remaining 30%, or approximately 400,000 households, have their credit card accounts with the banks in New Jersey.

"During the period the State's banks contracted their credit card operations and literally went out of the business" -- that was when we had the cap--

MR. KISH: Yes, when we had the cap.

SENATOR LESNIAK: "--the out-of-state banks spent millions of dollars in direct mail campaigns soliciting New Jersey consumers. The strategy paid off and, while the New Jersey banks were helpless to compete, the out-of-state banks

moved aggressively to capture a 70% share of the State's market. Our current surveys indicate that the two largest card issuers in this State are out-of-state banks whom we estimate have more card holder accounts in New Jersey than all of the New Jersey banks combined. Other banks from New York, South Dakota, Delaware, California, and Pennsylvania have large numbers of New Jersey consumers as their customers."

Quite frankly, I think that is the crux of the matter.

MR. KISH: That is what actually happened. The surveys indicate that the out-of-state banks are very heavy, and just overwhelmed the New Jersey banks here. The law — the caps — would only apply to this small number of New Jersey banks and this small number of New Jersey accounts.

SENATOR LESNIAK: Al, we really have to move on. Are there any questions from the members of the Committee?

SENATOR CARDINALE: Yes. If we were to limit our activity in this Committee -- and I am not presuming that we would -- to the Connors bill, which requires a reporting, how would your institution do that? I know you testified primarily--

MR. KISH: Would you repeat that, Senator?

SENATOR LESNIAK: There is a bill-- I'm sorry. We have a bill -- you may not be familiar with the specific proposal -- that requires, I think, quarterly reports to the Department of Banking.

SENATOR CARDINALE: Of what the rates are, and with their subsequent publishing of the rates around the State.

MR. KISH: We have no objection to publishing rates, but I think -- as I pointed out -- 18% is not 18%. You could have three different banks with 18%, but the cost to the customer in each case could be different.

SENATOR LESNIAK: I think it would be very important that we would also have to publish the rates of the other banks that issue cards in the State, so that the consumer would be aware of that choice.

MR. KISH: Of the out-of-state banks?

SENATOR LESNIAK: Right.

MR. KISH: You know, there is one other point I would like to make, because they keep bringing up the point about the T-bill rate. Someone here earlier said the T-bill rate is 6%. So, apparently, if you are in a T-bill now, it is a bad investment, because if you come over to us we pay you up to 7%, yielding 7.39, and we will pay you 9% on our special IRA accounts for a 12-month period, which yields 9.42. These rates coming down really do not affect us, because we've got this money out. We are buying money in from our depositors at these varying rates. What constitutes our cost of funds is a pool. We take all these different rates, the costs we pay for them, all the moneys gathered--

SENATOR LESNIAK: Some rates are going up.

MR. KISH: Yeah, they could go up. So, as Dr. Dunkleberg pointed out, when you set a cap on loans, then you are telling us, "Reduce the rates you're paying to your consumers -- your savings account holders."

SENATOR LESNIAK: Okay. Thank you. James Billmeyer, Horizon Bank.

J A M E S L. B I L L M E Y E R: Thank you, Mr. Chairman and members of the Committee. I am James Billmeyer, Executive Vice President of Horizon Bank.

In the interest of time today, if I may I would like to dismiss the reading of the prepared testimony, and just focus on three key issues which I believe will lend a perspective to this hearing.

If I may first go back to pre-1981 and the circumstances which we, as bankers, experienced then, which my colleague just testified to in some degree-- Interest rates at that time were tiered with 12% on cash advances and 15% on the purchase of services. At that time, interest rates -- the prime rate and money market rates -- were higher than that. We

could not afford to issue cards on a mass basis in the State. Instead, we sold our money to New York State, which lent it back at much higher rates and, consequently, we lost a substantial portion of the market share.

When rate relief was granted in 1981, the average prime rate for that year was 18.9%. Most banks in the State of New Jersey, at that time, chose to respond with an increase of under 20%. In the case of the Horizon group, it was 19.8. I think we have made an assumption, in general, that that was an appropriate rate relative to the cost of funds at that time. I would submit that were that the case, the rate would have been in the mid-20s. What it reflected at that time was our perception of what the market would respond to, and I think that that is key.

But, most importantly of all, you have before you two bar charts, which show the activity of Horizon Bank subsequent to 1981, and for the four years prior to that. Four years prior to 1981, we issued approximately 20,000 cards. With the economic incentive to compete aggressively in the marketplace, we issued over 250,000 cards in the last four years. Those 250,000 cards translated into the purchase of consumer goods and services well in excess of a half a billion dollars, all of which, when you apply the multiplier effect, goes to substantially support the economy of this great State of New Jersey.

In addition, with that aggressive growth, we offered credit to those who would have been denied credit prior to the removal of the interest rate restrictions. There are a number of first-time card holders who are presently among our portfolio base. There are card holders in disadvantaged cities, and they are enjoying the opportunity to compete and participate in an economic environment on a full-scale basis. We feel the dramatic growth which has placed us number one in the State as far as credit card outstandings and tied with

another major bank in the State as far as the number of cards outstanding, could only have been achieved had interest rate relief been granted. As a matter of fact, of the 250,000 accounts which we opened subsequent to 1981, I would venture to say that less than 25,000 of those would have been granted had we still been restricted by the prior laws.

SENATOR LESNIAK: How many would not have been granted by your bank did you say?

MR. BILLMEYER: I would estimate 225,000.

SENATOR LESNIAK: And those people would have either had credit unavailable to them, or would have gotten it from an out-of-state bank?

MR. BILLMEYER: That is correct, Senator.

SENATOR LESNIAK: Are there any questions? Senator Cardinale? (no response) Thank you very much. May we have Bob Farnon, from Midlantic National Bank?

SENATOR JACKMAN: Everybody here is in the same category.

SENATOR LESNIAK: Well, Chris, everybody sat here and listened to our frivolous moments, so we can sit and listen to them.

SENATOR JACKMAN: Thank you.

SENATOR LESNIAK: Are you representing Midlantic now?

R O B E R T J. F A R N O N: No, I'm just--

SENATOR LESNIAK: You'd rather switch than fight?

SENATOR JACKMAN: How many banks you got, Robert?

MR. FARNON: I get paid by the piece.

SENATOR JACKMAN: I'll tell you something, we made a mistake. This is a hell of a job. You guys got a good job. What other banks do you have? (no response)

SENATOR LESNIAK: Senator Cardinale, you resisted the opportunity to ask the last bank to testify, are they always in favor or against caps. (laughter) Go ahead, sir.

MR. FARNON: Mr. Chairman, also in the interest of time, I will summarize my prepared statement, which you have now received a copy of.

For the record, I am Robert Farnon, Senior Vice President with Midlantic National Bank/North of West Paterson. There are a couple of items that I feel are worth this Committee's attention.

I would like to take the opportunity, number one, to clarify some of the general misconceptions regarding credit card rates as compared to installment loan rates, and why credit card rates generally are higher. A credit card, by its very nature, is a continuing service through a revolving credit facility, rather than a one-time transaction created through an installment loan. An installment loan application is processed, investigated, approved, a loan closing takes place, proceeds are disbursed, and a coupon book is issued. The average installment loan today approximates \$10,000 in a single transaction.

In the issuance of a credit card, the basic application process is generally the same as described for an installment loan. However, once the credit card is issued, the similarity ends. A credit card is usable virtually around the world in any time zone, at any time of day or night that retail stores or banks are open. In order to service our customers and provide around-the-clock convenience, 24 hours a day, seven days a week, elaborate systems have been developed which require constant monitoring, upgrading, and people support. I mentioned earlier that the average installment loan today approximates \$10,000. Comparatively, the average credit card transaction at Midlantic Bank is approximately \$75. It, therefore, would take 133 individual credit card transactions to procure the same dollar amount as one installment loan.

In addition, the credit card account requires monthly billing statements, as compared to the one-time issuance cost

of a coupon book for an installment loan. The average cost to issue a coupon book is \$2, or 50 cents per year, on an average loan of four years. The average cost to issue a credit card statement is 56 cents per month. New credit cards are reissued, usually on an annual basis, another expense that is not required on installment loans.

SENATOR LESNIAK: Bob, we are going to append your testimony to the record. I have read it. Basically, you reiterate the (indiscernible) problem and the out-of-state problem, which really are crucial to the issue, as I see it. Senator Cardinale?

SENATOR CARDINALE: Yes. I would like to suggest, Senator, that you have an awful lot of bank testimony to take, and it seems to be repetitive. I wonder if I could suggest to you that maybe we could have them all submit their statements, and maybe see if there are some people on the witness list who are from the other side of the question, who have something different.

SENATOR LESNIAK: Well, I think, Senator, we should give them the opportunity to come up, identify themselves, and at least summarize their testimony.

Thank you very much, Mr. Farnon. Ferdinand Horn, United Jersey Bank.

F E R D I N A N D H O R N: I have prepared testimony, Mr. Chairman, which I will not go over.

SENATOR LESNIAK: Oh, boy, plastic covered. You know its UJB. Now, this didn't work last time, so-- (laughter)

MR. HORN: I am Ferdinand Horn from United Jersey Bank. I am the Manager of the card operations. There are two charts included along with that testimony. The first one -- Chart #1 -- compares where we were in 1980 to where we were in 1985. In 1980, we accepted 17,000 applications from customers for new credit. In 1985, we accepted 72,000 applications from customers for credit. The approval rate between the two years

was approximately the same percentage. The requirements have changed, but they are more liberal. For instance, in 1980, we would require a customer to be a depositor of the bank and to have an income level much higher than today, but as far as the required credit -- the positive credit history -- it was about the same thing.

Total credit lines increased from 69 million in 1980 to 360 million in 1985. The average purchase balance increased from \$375 in 1980 to \$750 in 1985, but the customer increase in purchases was much more; only \$850 in 1980, up to \$2300 in 1985. The delinquency rates have remained just about the same; the charge-offs up slightly. The big increase in losses had to do with counterfeiting. We almost had no counterfeiting in 1980. In 1985, the counterfeiting loss was up about 1000%. I think we have capped that at this point.

The biggest increase is the volume of purchasing accepted by our New Jersey merchants. In 1980, we processed \$100 million in credit card transactions. In 1985, that increased to \$400 million, and I expect this year there will probably be about \$700 million in credit card purchases through our merchants.

Our annual percentage rate-- Of course, we were a State bank. In 1980, we had a rate cap of 15%. In 1985, we charged 18%; on our gold card we charged 17%, and we have special programs for special groups. Our Senior Club rate is 14.44%. Our yield -- on an 18% rate -- is slightly less than 15. We probably have a greater percentage because where we are located our customers pay off in full. It is somewhere around 14.8, 14.9.

The other chart I would like to refer you to is--

SENATOR LESNIAK: The yield----

MR. HORN: The yield has gone up 3% as our rate has gone up 3%. The amount of interest paid has gone up from \$45 to \$112.50 per typical account. But, if you relate that amount

of interest to the volume, it actually turns out that the customer today, because of these expanded lines of credit, is actually paying slightly less in interest than they were back before deregulation. That is primarily because we have given them extensive increases in those lines of credit, and they are using them. Many of those customers-- In our case, about 50% of the customers pay finance charges at any one given time.

SENATOR LESNIAK: Senator Cardinale?

SENATOR CARDINALE: No.

SENATOR LESNIAK: Thank you very much. The last speaker was particularly impressive.

Peter Graziano, New Jersey National Bank. Everybody is co-opting everyone else's testimony, and I'm sure we don't have any of yours to go over, Peter.

PETER J. GRAZIANO: I think you're right.

Mr. Chairman and Committee members, thank you for allowing time for these comments. I will try to make this brief, as much of this testimony is the same. I think there are three points which are very important. One is, since 1981, when legislative relief was given to bankers in New Jersey, we have expanded our individual card holder base by over 150,000 accounts and provided 17 full-time new jobs in the New Jersey job market.

I think there are just three tests that really need to be applied to the legislation that is being proposed. Does it really affect the majority of New Jersey card holders? I think the testimony today bears out well that it will not. Does it provide the basis for New Jersey institutions to compete in a very highly competitive market? I think the testimony answered that question today. And, will it foster the expansion of industry and employment in this State? I think those are the three tests that need to be applied to this legislation.

SENATOR LESNIAK: You ask the right questions?
Senator Cardinale?

SENATOR CARDINALE: How would you feel about advertising?

MR. GRAZIANO: How would I feel about advertising?

SENATOR CARDINALE: Yes.

SENATOR LESNIAK: Do you mean disclosure?

SENATOR CARDINALE: Disclosure and subsequent advertising of those rates by the State.

MR. GRAZIANO: I really wouldn't have a problem with disclosure. We are presently required to disclose under article 12 (a), and under regulation (z), the periodic rate that we charge on every periodic statement. And, we are required to disclose it in a way that is deemed as conspicuous. So, you know, I don't have any objection to it. We are already doing it, and we are already reporting to the Department of Banking.

SENATOR LESNIAK: Thank you.

MR. GRAZIANO: You're welcome.

SENATOR LESNIAK: John Coote, Citizens First National Bank. By the way, I assure everyone that the full text of their statements will be entered into the record, and that a transcript of today's hearing will be available.

J O H N W. C O O T E: Very briefly-- First, my name is John Coote. I am Senior Vice President of Citizens First National Bank of New Jersey. We appreciate the opportunity to express our views here today.

In an effort to summarize my statement, I will be very, very brief. I would like to say something about the value of the card, not so much about the cost, which is being heavily covered by others. We at the bank believe that the card is a valuable borrowing device, with unlimited flexibility and convenience. There is no credit system so universally accepted and so fulfilling of all of the borrower's needs as the credit card itself.

It is a very complex thing when you travel from the point of sale down to the posting to the customer's account. It is very complex, but the simplicity is the hallmark of the card, and that belongs to the consumer. There is no doubt in my mind -- and I don't think in anyone's -- that the plastic device represents, at present and the foreseeable future, the most advanced technological method of making instant credit available to millions of card holders at millions of locations throughout the world. I believe that any effort to regulate the finance charges would stifle the vigorous competition that would be going after that industry.

Interference in the marketplace would only serve to deplete the ranks of the small credit card issuer, surrendering that position to the large or future monopolistic giants. We fail to see how this would benefit any consumer.

We respectfully suggest that the legislators explore less devastating ways to effectively reduce credit card costs, directing perhaps their efforts toward a true variable rate law, either amending existing law or enacting new law that would permit the banks to respond quickly to the changing rate situation, permitting the banks to both recover from a low-rate position, as well as to decrease the rate when competition so warrants.

Just a little bit about our own bank. In the last five years, without any advertising other than some newspaper media advertising, we have increased our portfolio -- our outstandings, as a matter of fact -- by 300%. The credit card outstandings represent only 29% of the total lines committed by the bank. This figure has been true for the last five or six years. I didn't bother to go back before that. This certainly is not indicative of any credit card abuse, at least by our consumers.

SENATOR LESNIAK: John, we appreciate your testimony. Senator Cardinale?

SENATOR CARDINALE: I do have something. In your conclusion, on page 7 of your written statement, you seem to say something different than what most of the bank people have said. You seem to be pointing toward a workable variable rate consumer loan law.

MR. COOTE: Yes, sir.

SENATOR CARDINALE: Do you mean by that some of the types of formulas that have been suggested in some of the bills before us?

MR. COOTE: Well, I feel that these bills only go halfway. What they are doing, as I read them, is suggesting that, by index, we reduce our rates. But, there is nothing to cover the increasing of the rate on a whole. So, if we reduce our portfolio by 1%, 2%, 3%, 4% -- whatever it be -- we can't recover that unless the consumer uses the card or authorizes the increase. And, of course, the latter is very unlikely to happen. I wouldn't do it either, not if I had the option of waiting until I used the card.

So, that outstanding balance -- a certain portion of that -- will remain at the lower rate for one, two, or three years, until it is paid out or until a person uses the card. Now, a person who has run up large balances has very little need to increase a rate for the sake of borrowing a few hundred dollars. You know, if you are going to go out and borrow a few thousand dollars -- you can go up to \$25,000 -- if you are making that type of purchase, that is one thing. But for a few hundred dollars, you are not going to permit the rate to be increased on your account.

SENATOR LESNIAK: That is not the real function of a credit card. I mean, doesn't that make a complex system out of something that consumers rely on being simple, in terms of their use, and aren't you really talking about-- Wouldn't that really be better handled by your loan department, so they could pay it off, get another loan -- maybe a secured loan -- or,

with other collateral, pay off the credit card balance and start anew? Wouldn't that be a better way of doing it?

MR. COOTE: Well, of course, the people who have that and the people who have the collateral to do that generally simply take advantage of the grace period. Now, our record since we have been in this since 1969, is that 40% of the people have used the grace period. So, that marks down our disclosed rate to an effective rate of less than 15%.

Now, this is the system; this is the nature of the beast. It is the card, and this is fine. This is what makes the card really so variable. I think that anything you sell -- any product you have -- if it has great value, it deserves a certain return on it. The industry, I think, so far today, has certainly justified the cost. It is there. I don't think there is-- Even during our toughest periods -- as I had in my statement -- as far as profit-wise is concerned with the card, we continued the grace period. We never let the grace period go. I don't think, either, that that is indicative to any type of ripoff.

This is a very fair price we are charging. We are charging 18%, while 80% of the card holders in New Jersey -- I say 80, some say 70 -- are actually paying a much higher rate than that. They are paying 19.6 or 19.8, or at least have been over the last number of years. But competition-- If we were permitted to go out and raise the rate when needed, lower the rate when needed, the rates would go down. There is no question about that. As long as we can move the portfolio--

SENATOR LESNIAK: What restricts you from doing that now?

MR. COOTE: Well, it's very simple, sir. If we go lower now, there is no question that that livens up the competition. The only point is, we cannot take that whole portfolio and move it back when the rates demand that it be moved back.

SENATOR LESNIAK: Why?

MR. COOTE: Because we are not allowed-- First of all, sir, we have a 90-day -- which really amounts to a 120-day -- turnaround. You have to have at least 30 days to work it up. Second, you have 90 days in which to tell the customer -- to place the customer on notice -- that the rate is going up. The consumer does not have to take that higher rate, unless he uses the card. Now, what happens here with these bills you have?

SENATOR CARDINALE: That is by law? That is a law that we have now?

MR. COOTE: Yes, that is the law, sir. We cannot do that.

SENATOR CARDINALE: And, are you predicting that if we adjusted that law -- if we made a true variable rate law--

MR. COOTE: To a true variable rate, yes.

SENATOR CARDINALE: --let's say, on a 30-day notice basis--

SENATOR LESNIAK: I'm sorry to interrupt, Senator Cardinale, but I don't think we could change the notice basis, because that is federally regulated. Yes or no? Am I wrong in that?

MR. COOTE: Well, it's regulated by your law -- the New Jersey State law. You certainly can change it.

SENATOR CARDINALE: So, you are predicting that the rates would go down today, on a voluntary basis, if we made that change and gave you that flexibility?

MR. COOTE: If we had the documentation now, and that type of law were in effect today, absolutely. I have no doubt in my mind that the rate would go down. But, you must remember when I make that statement, I also know that I can increase -- under that condition -- the whole portfolio upward, when I need to.

SENATOR LESNIAK: So, if I have \$1000 outstanding on my credit card, and when I purchased it it was at 15%-- If I haven't paid it up, when the rate goes up I will be paying 18% or 20% -- I could be paying 18% or 20%?

MR. COOTE: Yes, but remember--

SENATOR LESNIAK: That is the proposal?

MR. COOTE: Well, of course, it works both ways, you know, up and down.

SENATOR LESNIAK: I understand. I am just trying to explain what the--

MR. COOTE: Yes, all right. I'm sorry.

SENATOR LESNIAK: I am not being argumentative; I am just trying to explain.

MR. COOTE: No, neither am I. I am just trying to make a point there. I'm sorry.

SENATOR LESNIAK: Okay, thank you.

SENATOR CARDINALE: Maybe we have discovered something.

SENATOR LESNIAK: Okay, thank you very much. It is an interesting proposal, and we will look at it.

MR. COOTE: Thank you, Senator.

SENATOR LESNIAK: At least Senator Cardinale will look at it, I'm sure.

Now I want to hear from the 15% guys. Is Jack Lamping here, from Toms River?

MR. DAVIS: He's off.

SENATOR LESNIAK: Oh, he's off.

SENATOR CARDINALE: That is the 15% bank.

MR. DAVIS: He will not testify; neither will they.

SENATOR LESNIAK: Oh. Neil Fogarty, Consumers League of New Jersey. Neil, are you in favor or against these bills?

N E I L J. F O G A R T Y: In general, Senator, I am in favor of the floating usury ceiling. I am the President of the Consumers League of New Jersey, a volunteer nonprofit group. I also sit on the Federal Reserve Board's Consumer Advisory Council.

From listening to all of these bankers today, I am glad they are not in the gasoline business, because if they were, we would still be paying \$1.40 for gasoline.

SENATOR LESNIAK: Why is that?

MR. FOGARTY: Well, the price of crude oil has dropped. We used to pay \$1.40 for gasoline; now we are paying 70 or 80 cents. Think of the costs that gasoline companies have. They have to drill it; they have to refine it; they have to put it on ships; they have to take it and put it in little trucks. Then it goes to a gasoline station. Compare that sort of production cost to what I have been hearing. The professor talks about postage--

SENATOR LESNIAK: No, no, no, no, no. Let's not compare apples and oranges, okay?

MR. FOGARTY: Okay.

SENATOR LESNIAK: We're talking about the gasoline station. When a gasoline station gets a barrel of gasoline -- which is 42 gallons, okay? -- that price went from, what, \$28 or \$26 a barrel to \$10 or \$12 a barrel. Forty-two times that -- okay? -- you have to compare that with that gasoline station's administration, and then you can determine what the price is.

MR. FOGARTY: Sure, Senator. The main point is, the price of money has dropped, just like the price of oil. Consumers have thousands of gasoline stations to go to in New Jersey, but there are apparently only 52 banks that issue Mastercard and Visa.

SENATOR LESNIAK: Or, out-of-state banks. They can go to them.

MR. FOGARTY: They can go to out-of-state banks. My point -- since you have been very concerned about that -- is, what would happen if a New Jersey bank copied Chevy Chase Savings and Loan of Maryland, and started offering a 14% card? I don't know why they haven't thought of it.

SENATOR LESNIAK: We have one -- 15%.

MR. FOGARTY: Okay. If they advertised in New York, Senator, they would get thousands of customers. Chevy Chase advertises in The Washington Post, and, you know, they will send applications out here.

SENATOR LESNIAK: Maybe they ought to advertise in The Star-Ledger.

MR. FOGARTY: They should advertise in The Star-Ledger--

SENATOR LESNIAK: Is there anything preventing them from advertising in The Star-Ledger?

MR. FOGARTY: No, Senator, there isn't. They should. But, if New Jersey banks lowered their rates, then they would get a lot of customers. They would get more annual fees; they would get more merchant fees -- the charge slips.

SENATOR LESNIAK: So, the only smart banker in the State of New Jersey is that guy down in Toms River?

MR. FOGARTY: He should advertise more.

SENATOR LESNIAK: And, he is not smart enough.

MR. FOGARTY: He should advertise more. In essence, of the bills, we like Senator Contillo's bill, which is Senator Russo's bill of last year, because it is the most definite. It puts a floating cap-- In essence, the floating cap is the same as the adjustable rate mortgage. I'm sure that all of the people behind me will defend the adjustable rate mortgage, and I don't see why they shouldn't defend the--

SENATOR LESNIAK: Except that there is no cap. There is no statutorily mandated cap.

MR. FOGARTY: Well, that is only on first mortgages, because the Federal government has taken away the ability of the State to set that cap.

The Consumers League favors a general revision of the usury law. We like the floating rate cap idea, and we think it should be extended, in addition to the credit card and retail

credit cards, to other types of credit which are currently only covered by the 30% usury law; like, car dealer financing, insurance premium financing, small loans, and home repair contractors.

In my appendix, I showed you, you know, that 30% has been charged here. That is that other thing. (referring to appendix to written statement) Do you have it out yet?

SENATOR LESNIAK: No, I'm sorry.

MR. FOGARTY: Okay. Like, here is Potamkin Motors, which has a 29.9% contract. The same company also offers 9.9% financing. There is really a lot of things going on out there that you should be aware of. The banks, in general, are not charging above 20%. I mean, the credit cards are their highest priced product. But there are other types of creditors who have gone up to the ceilings. The finance companies have been up to 30%. I attached a 27% finance company loan to this. We also attached a list of the various banks -- I guess it is Congressman Schumer's list -- and we attached something from Senator Al D'Amato in New York. I mean, this is basically a nonpartisan issue. We are a nonpartisan group.

There has been a lot of ferment in Congress. Congress had hearings on this in January. There have been a lot of articles in the newspapers about this. People are very upset about it, okay? They may not know enough to write to the Department of Banking about it, but they are upset. If you ask the average person if he thinks he is getting ripped off by 18% or 20% interest, he is going to say yes.

People would like to see something more reasonable, but there isn't a real choice. I mean, how many consumers know about the Chevy Chase Bank, or how many know where to send something in Arkansas?

SENATOR LESNIAK: Isn't that the solution?

MR. FOGARTY: We think the solution is to reinstate some usury ceiling. We think that the floating usury ceiling

-- you can either take Senator Contillo's formulation, or write one of your own -- will enable the banks to make a profit. After all--

SENATOR LESNIAK: But, we can't affect out-of-state banks.

MR. FOGARTY: That is right, Senator. I also favor Federal laws to control them. There are Federal bills pending which are similar. But, New Jersey--

SENATOR LESNIAK: So, if 70% -- and I believe that figure is accurate -- if 70% of card holders-- If 70% of the cards held by New Jersey residents are from out-of-state banks, what am I doing to the New Jersey economy, vis-a-vis the out-of-state economy, and how am I really helping out the New Jersey consumer?

MR. FOGARTY: I think that if New Jersey banks started offering cards at 13% and 14%, New Jersey consumers would use them, and they would get back those \$15 annual fees.

SENATOR LESNIAK: We have one at 15%.

MR. FOGARTY: Until the Public Advocate mentioned that, I was not aware of it, and I read The Star-Ledger every day.

SENATOR LESNIAK: I wasn't aware of it.

MR. FOGARTY: And, obviously, I have been interested. Our organization was interested in 1981, when these laws were repealed, and we were interested back in the '60s and '70s, under other people in the group.

SENATOR LESNIAK: Are we preventing Chevy Chase Bank from advertising in New Jersey?

MR. FOGARTY: We don't prevent them at all, but I am just saying, it would be good for New Jersey banks. They would get more business. They could steal business from New York if they offered it at lower rates.

SENATOR LESNIAK: Well, they may all rush out today to change their interest rates, after hearing this testimony.

MR. FOGARTY: There are only 50 of them. That is the problem; there are not enough of them. They don't have an incentive now. Consumers don't think they have a choice. They don't know about Chevy Chase Bank, or the banks in Arkansas.

SENATOR LESNIAK: I think you are hitting on a very important point. We have to find a way to deal with that point.

SENATOR CARDINALE: The Connors bill does allow the State Banking Department to gather that information and disseminate it. So, I think that does approach part of the problem you are presenting.

The previous witness opened up a new topic here, which really is something that is not the subject of any of these bills directly; that is, if we had an ability for the banks to adjust that rate on a monthly basis, either upward or downward, he predicted that the rates today, without any control, would be lowered, if they had the assurance that if their cost of money went up next month, they could adjust it in the other fashion. How do you view that?

MR. FOGARTY: Well, like you, Senator, I only heard about it 10 minutes ago. I really would want more time to study it. It is an interesting idea. I guess the idea is a trade-off. If the banks can get a variable rate credit card, will they agree to a variable rate ceiling? That is the way I would look at it. I wouldn't want to see a variable rate credit card without a ceiling, though.

SENATOR LESNIAK: Thank you very much.

MR. FOGARTY: I have included -- if the Committee is interested -- a draft of a general floating rate usury law. I mean, currently it is in the criminal usury law, but if you wanted to take it out of there and put it in another law, it would do the job just as well. I think these other types of creditors are not getting the attention--

SENATOR LESNIAK: I don't see that. Is that in our package here?

MR. FOGARTY: That is in the appendix. It is a proposal for a general floating rate usury law to apply to all creditors that were deregulated in 1981.

SENATOR LESNIAK: Okay, fine.

MR. FOGARTY: Currently, you know, we are seeing the 30% show up in some of these credit markets. We think that is perhaps even a more pressing problem than credit card interest rates, but, of course, there are more credit card holders than there are people being affected.

SENATOR LESNIAK: Yeah, but these are, oftentimes, more damaging.

MR. FOGARTY: They certainly are, Senator.

SENATOR LESNIAK: Okay. Thank you very much. We will certainly look at your proposal. Rene Borstad, Burlington County Director of Consumer Affairs.

R I C H A R D K. W E I N R O T H: Mr. Chairman, my name is Richard Weinroth. I am here on behalf of Citizens Against Penalty Surcharges, along with Ms. Borstad, who, as you indicated, is the Director of the Burlington County Division of Consumer Affairs.

SENATOR LESNIAK: How does this fit in with Resorts International?

MR. WEINROTH: It's hard to say, Senator. You will find me in the strangest places. (laughter) Actually, Resorts is considering issuing a credit card of their own, Senator, and I thought I would see what could be done on their behalf.

Actually, we are directing our attention to S-1160, Senator Feldman's bill, which would prohibit surcharges on credit card purchases.

SENATOR LESNIAK: Okay. We really haven't spoken very much about Senator Feldman's bill.

MR. WEINROTH: I know you haven't. We will be relatively brief. I am almost reluctant to--

SENATOR LESNIAK: What I am basically saying is, I would like to hear what you have to say, because we haven't heard much on it.

MR. WEINROTH: Okay. I am almost reluctant to say this, but this appears to be noncontroversial. Of the individual groups and interest groups I have spoken to, I haven't heard anyone yet who opposes this concept. I am just here to give you a little bit of background, and then allow Ms. Borstad to testify.

Up until 1984--

SENATOR LESNIAK: You are going to allow her to testify? I thought that was the role of the Chair.

MR. WEINROTH: Oh, well, pardon me, Mr. Chairman. I certainly don't want to step on the toes of the Chairman of the Committee.

SENATOR LESNIAK: Go right ahead.

MR. WEINROTH: My role, as I indicated, is just to give you a little bit of background. Up until 1984, surcharges of this nature were prohibited by Federal law. That prohibition expired in 1984.

SENATOR LESNIAK: What surcharges are we talking about?

MR. WEINROTH: Well, the surcharges we are talking about-- Take a situation where an item is advertised for \$100. You come in with a credit card; you offer that credit card as payment, and you are told that because you are using a credit card it cost the establishment "X" amount of dollars. Therefore, you will be surcharged, or penalized, \$2, \$3, \$4, \$5. It is an add-on to an advertised price.

SENATOR LESNIAK: Okay. We are not talking about the Exxon situation, where--

MR. WEINROTH: No, sir. Specifically, I was going to say that it does not prohibit deviation from an advertised price for cash.

SENATOR LESNIAK: As long as it is advertised that way.

MR. WEINROTH: As long as it is advertised, whether it is gasoline, or whether it is any other consumer product.

SENATOR LESNIAK: Does the bill do anything else?

MR. WEINROTH: Not to my knowledge, Senator.

SENATOR LESNIAK: That is basically what the bill does?

MR. WEINROTH: That is exactly what it does, yes, sir.

SENATOR LESNIAK: Why don't we release that today?

RENE BORSTAD: I would be very pleased if you would do that, Mr. Chairman.

SENATOR LESNIAK: We can't do it. I would love to do it, but, you know--

MS. BORSTAD: I have had a very interesting morning here. Thank you very much. I am glad to be here. I see that the Committee gets smaller and smaller, but I am glad we had a chance to be called.

SENATOR LESNIAK: But, your testimony will be transcribed, and I ask questions of these guys later, so--

MS. BORSTAD: Oh, okay. That's good. We are here, as Mr. Weinroth said, in support-- I am the individual who is the caps representative for the State of New Jersey. It has been interesting. People say, "Well, you know, how is this happening? What has occurred here?" Basically, what we have had here in this large credit card society is the beginning now of retailers coming forward and being penalized by charging a surcharge.

I would like to state that I would like to support this bill because it adds very little other than the fact that it prohibits surcharges in the act itself. By placing it in the act, it then prohibits an individual from imposing a penalty for using a credit card. As Mr. Weinroth stated, it does not interfere with any cash discounts at all.

We are finding that when the consumer is out there making a transaction and comes to the counter to make a

purchase, suddenly the consumer finds that he is going to be penalized a percentage for using the card.

SENATOR LESNIAK: Let me ask you this: I use my credit card a lot, and I have never run into that. How prevalent is this, and what type of businesses?

MS. BORSTAD: Well, I can only point out to you something that recently happened to Connecticut Senator Harper, who felt there was nothing happening in the area. Recently, he was surcharged while he was at a restaurant attempting to use his credit card. Connecticut is moving fast right now to prohibit surcharges.

SENATOR LESNIAK: Because of what happened to the Senator.

MS. BORSTAD: The New Jersey experience we had was going into a video store, and when the credit card was presented, we were told there would be a 3% charge for using the credit card, which is unfortunate, because we now have the consumer being doubled charged. He does not have the same experience as a cash customer.

MR. WEINROTH: It is my understanding also, Senator, that that was a complaint that was brought to Ms. Borstad's attention through her position as Director of the Division of Consumer Affairs in Burlington County.

SENATOR LESNIAK: Okay. Thank you very much for your testimony. Senator Cardinale?

SENATOR CARDINALE: Yes. You indicate that this will not, in any way, impede the discounts for cash. As I read this, the only effective section-- It is all definitions. Unless I am missing something -- it is item 2 on page 5 -- that is the effective portion of the bill-- It says: "A retail seller shall not impose a surcharge on a retail buyer who elects to use a retail charge account to pay for goods or services in lieu of payment by cash, check or similar means."

Wouldn't any court determine that if you offered a discount for cash, you were in violation of this section?

MR. WEINROTH: No. I would submit-- First of all, the reason there is so much text in here-- As you know, Senator, in order to avoid repealing the existing portions of the act, it is necessary to repeat them. So, to get that one little paragraph in, you have several pages of bills and a lot of money for McCrellish and Quigley.

But, anyway, the intent here -- and I would respectfully submit that it is a clear intent and is clearly written -- is that once a price is posted, to charge above that price because someone is using a credit card-- That would be prohibited. It is the deviation upward from the advertised price for the use of a credit card. It would not prohibit the deviation downward for use of cash under the circumstances.

SENATOR CARDINALE: I hear what you are saying, and I hear what you intend. I have no argument with what you are saying or with what you intend. But I don't think this says that. I don't think this language--

SENATOR LESNIAK: The definition of surcharge-- I think you have to look at the definition of surcharge on page 4, at the bottom. I think that really clarifies things, Senator Cardinale. "'Surcharge' means any increase in the cash price of goods or services--"

SENATOR CARDINALE: You're right, Senator. I got tired reading the definitions, and I didn't go all the way.

SENATOR LESNIAK: Thank you very much.

MR. WEINROTH: Thank you.

SENATOR LESNIAK: Elgie Holstein, Associate Director of Bankcard Holders of America.

E L G I E H O L S T E I N: Thank you, Mr. Chairman. It has been a long day, so I will shrink my testimony here for the benefit of all.

SENATOR LESNIAK: Do we have your testimony?

MR. HOLSTEIN: Yes, you do. First, let me go on record as saying that our organization supports the surcharge

legislation. I realize there hasn't been much discussion of it, but we would like to add our voice in support of that legislation. Briefly, Bankcard Holders of America is a national organization of individual credit card consumers. We have been -- from the consumer standpoint -- the most active organization in working with state legislators across the country, as well as with Congress on credit card issues, particularly on this legislation. For example, I would be happy to give you some information on what other states are doing, but suffice to say that this very same issue is under consideration in a large number of states in every region of the country.

We are appearing before you today because we believe that interest rates are far too high, and secondly, because we think consumers are unaware, to a large extent, of the terms and conditions applicable to their cards.

I listened, I guess, for over an hour to the discourse by the good Professor from Purdue. I have seen him testifying in several other states.

SENATOR LESNIAK: A hired gun.

MR. HOLSTEIN: Perhaps so. He was talking about the free market and credit cards. While it was a very interesting economics lecture, I think he left out a basic part of at least my background in economics; that is, a free market, by definition, requires complete information in the marketplace. That is spectacularly absent in the area of credit cards.

SENATOR LESNIAK: We only have one bill before us that deals with that issue.

MR. HOLSTEIN: I would strongly suggest that the component of disclosure be incorporated into any bill, or at least be incorporated as a minimum. Let me demonstrate. I'm sorry that Senator Jackman isn't here, because he made reference earlier to his belief that, just as in the case of auto loans and home loans, consumers could readily discover, in

the course of advertising, and so forth, what the interest rate is on credit cards. Sadly, that is just untrue.

This is an advertisement (demonstrates) -- a full-page ad for an auto loan and, as you can see even from where you are sitting, the most prominent feature of it is the interest rate. This is a two-page advertisement for a credit card issued by a large money center bank -- Citibank -- which, parenthetically, of course, is located-- It issues its cards out of South Dakota. Nowhere -- nowhere -- in this advertisement is there any reference to the interest rate or other terms of conditions of the card.

SENATOR LESNIAK: We can't regulate that advertising, though, can we?

MR. HOLSTEIN: In fact, you can, Senator.

SENATOR LESNIAK: We can?

MR. HOLSTEIN: Let me get to that--

SENATOR LESNIAK: As a State?

MR. HOLSTEIN: Yes, sir. Let me get to that point in just a moment. The banks will be quick to point out, as is the case, that Federal law requires them to disclose fully to their consumers. In fact, several witnesses earlier did indicate that they fully disclose on their statements. Yet, the issue before you today really has to do with new issuances of credit cards, not with whether or not the existing consumers know what they are paying. There are, to date, about four major different ways in which interest is calculated, and two or three different ways in which grace periods are applied. So, I would suggest that even those consumers who already have cards -- and there are 91 million Americans who do -- don't know what they are paying.

The small print here is the way they comply with the Federal law, and it is fairly typical for credit cards. What it says is: "The consumer will be deemed to have agreed to the interest rate and other terms of conditions, after they have

received the card." If they fail to reject the card, or otherwise notify the bank that they do not want it within 30 days, even if they never use the card, they are immediately subject to annual fees and any other periodic fees that may attach or apply to that card.

SENATOR LESNIAK: Now, how can we regulate that type of advertising?

MR. HOLSTEIN: An excellent question. Although you are prevented currently from imposing a New Jersey ceiling on out-of-state banks, you are not prevented from imposing requirements relating to disclosure. This is simply an advertising requirement on solicitations that originate in banks located in other states, just as you do on sweepstakes, just as you do on insurance offerings, just as you do on a wide variety of other basic disclosure requirements.

SENATOR LESNIAK: Where did that advertising-- Was it in some kind of magazine, or what?

MR. HOLSTEIN: Yes. I believe both of these came out of "Time" magazine.

SENATOR LESNIAK: Okay. Can we affect the advertising in "Time" magazine?

MR. HOLSTEIN: You can affect the advertising of the banks and, accordingly, if "Time" magazine were to distribute in New Jersey an advertisement for a credit card, yes, it would have to disclose that. As you know, Senator, though, much advertising, even in national magazines, is actually arranged for and paid for locally, to adjust to local market conditions, even though it is a nationally distributed magazine.

So, I urge you to consider that as one element of your review.

SENATOR LESNIAK: I consider that to be the most important element of our review -- disclosure and awareness, because I happen to think that consumers, if given the facts, can make the right choice. I am not going to make the choice for them.

MR. HOLSTEIN: It is an important first step. The very point you are making, that is to say that consumers are made aware and, if they know where to find low interest rate credit cards-- That underscores our belief, in contradiction to most of the testimony so far today, that if New Jersey were to apply an interest rate ceiling, even just on the banks that issue cards here in the State, and combined that with a disclosure requirement, that the citizens of New Jersey, rather than continuing to subscribe to credit cards issued by a South Dakota-based credit card operation, would rapidly begin to subscribe to credit cards issued right here in the State of New Jersey.

Now, obviously, on the surface it would seem that if that were the case, all of the representatives of the industry who were here earlier today would welcome this legislation. After all, it would seem to suggest that this would be a way to increase business. But I would suggest to you that for as long as they continue to enjoy the substantial and widening gap between their own costs of money and what they are charging for that money through interest charges, they see an opportunity for themselves to continue to profit handsomely under the current arrangement.

Now I know, and I want to respond very briefly to this-- I am well aware of the fact that the banks' cost of money -- which have fallen by about 50% in the last five years -- represent less than -- substantially less than 100% of their costs of operating the program. There are these administrative costs. Parenthetically, the administrative costs were the reason that was given to Congress and a number of states five, six years ago, when banks began to charge the now prevalent annual fee, claiming that this was needed to cover the administrative costs. And, of course, as was mentioned earlier, there are now a wide variety of other charges. Nevertheless, the president of Visa was quoted several months

ago in The New York Times, stating that the costs of money represented 50% of the cost of operating a credit card program.

But, let's take the lowest estimate that I have ever heard -- and I think it was mentioned earlier today-- The lowest estimate is that the banks' costs of money represent only 30% of the cost of operating the credit card program. Everything else is administrative costs. Were that the case, credit card interest rates should still have fallen by about two percentage points. Instead, over the last five years -- and I won't go over all of the specifics; they are in my testimony -- while every other interest rate has fallen by as much as 50%, while the banks' costs of funds have fallen by 50%, credit card interest rates have actually risen from an average in 1981 of 17.8% to a current average of 18.8%. There are further disappointments down the road. For example, the new Sears Discover card, which is being marketed as a major alternative and new competitor to Visa and MasterCard, and unlike Visa and MasterCard is a single interest rate nationwide, comes in at a very disappointing 19.8%. In fact, that points up the fact that the industry leaders here -- the 25 top issuers of credit cards -- who, by the way, enjoy the greatest economies of scale in their credit card operations, are charging higher than the national average. The national average, again, is 18.8. The 25 largest issuers of credit cards are charging an average of 19.4%. These same banks are enjoying very low loss rates, and they are enjoying very great economies of scale.

So, I think the arguments about the banks' costs, at some point, begin to lose credibility.

SENATOR LESNIAK: What is important to me is, why is their volume so great when they are charging so much?

MR. HOLSTEIN: There is no question in my mind that consumers are responding to what is the form of competition, if we can call it that in credit cards. That so-called

competition exists not on interest rates, but rather on the basis of frills -- travel and entertainment benefits, access to health clubs, and so forth.

SENATOR LESNIAK: What we need is a People Express of the banking business.

MR. HOLSTEIN: What we need is full disclosure of the interest rates. And, of course, you zeroed in on this problem earlier when you were asking some of the folks about what is going on in Arkansas. A quick point about Arkansas. The numbers clearly state that the percentage of cards held by Arkansas residents issued by Arkansas banks has continued to decline as a percentage of the national average. There is no question but that is, to a large extent, due to the fact that the national direct mail marketing campaigns are being undertaken by the 25 largest issuers. So, the handful of banks around the country which are offering low interest rate, or even moderate interest rate credit cards, are not among the ranks of the national leaders. As in many industries, the national leaders set the pace for the others.

You mentioned and asked a question about Chevy Chase Savings and Loan in the Washington area. There is nothing--

SENATOR LESNIAK: Were they named after the comedian?

MR. HOLSTEIN: Pardon me?

SENATOR LESNIAK: Were they named after the comedian?

MR. HOLSTEIN: I think it might have been the other way around. That bank could clearly advertise in The Newark Star-Ledger. However, that bank has no intention, nor desire, to do business outside its relatively small geographic vicinity. They have no intention, even with the new interstate banking laws that I know you have been grappling with, to move into massive interstate operations. They are basically a small family-owned operation in that vicinity. The same is true of many other institutions.

SENATOR LESNIAK: They probably know every single one of their card holders.

MR. HOLSTEIN: And they know many of their card holders, which brings me to one of the principal concerns expressed by members of this Committee. What will happen to card holders-- What will happen to the availability of credit if you impose an interest rate ceiling? Of course, we have to remember that up until 1979, 48 states had interest rate ceilings, and about 25 to 30 states either raised or removed those ceilings entirely in response to the banks' legitimate problems of coming up against those ceilings. The legislation before you, of course, would not be a return to those bad old days, because it would provide upward movement of the interest rates, as well as downward, when the banks' own costs changed.

SENATOR LESNIAK: If it were tied into the actual costs. I don't know that it has been established here that that basis has anything to do with the banks-- (Remainder of comment inaudible to transcriber due to background noise.)

MR. HOLSTEIN: No one has suggested -- or if they have they're wrong to suggest -- that credit card interest rates ceilings should be tied in to auto loans or home loan rates or even tied directly to Treasury bill rates. All anyone is suggesting is to pick an interest rate in the economy -- a generally accepted market index -- a 90-day or six-month Treasury bills is a good index -- and then add a number of points to allow plenty of margin for the additional recovery of costs, to arrive at an interest rate that provides plenty of room. Again, no one is suggesting that there should be an absolute lock in there. The key feature is the adjustability of that rate. It is a fair deal to both consumers and the issuers.

But, what about the availability of credit? The previous witnesses failed to do something very important on this issue. They failed to differentiate -- and I think we

must split the issue -- between those folks who already have cards and those who would apply for cards under an interest rate ceiling. Ninety-one million Americans, as I've mentioned, have credit cards. There are 703 million credit cards in the country today, of which about 161 million are bank cards. The average family has somewhere around five credit cards. If you were to impose a ceiling on credit card interest rates in New Jersey -- or nationally -- there is no question that the people who apply for credit cards would undergo greater scrutiny than they do now.

Let me return to that. But, the 91 million Americans who already have credit cards, who are the primary beneficiaries of this type of law, would not lose their credit cards--

SENATOR LESNIAK: Why is that?

MR. HOLSTEIN: --because credit cards are issued and they remain in the hands of consumers--

SENATOR LESNIAK: For one year.

MR. HOLSTEIN: No, sir, based upon good credit history, not solely on the basis of income. So, if the interest rate were cranked down, so to speak, as long as those consumers continue to pay their charges on time to comply with the terms and conditions of the cards, the banks would have no reason, indeed, they would be foolish, to actually recover -- to take back those cards from the consumers.

SENATOR LESNIAK: So, the only people we would be damaging would be those young people -- college students just getting out, young families wanting to furnish their homes, and things of that nature?

MR. HOLSTEIN: That is an important consideration. I did promise to return to it, so let me respond to that. There is no question -- and I readily concede -- that if you have lower credit card interest rates you force the people who apply for credit -- as you have suggested -- to greater scrutiny,

just as they now undergo scrutiny for auto loans, home loans, and other consumer loans. As a representative of a consumer organization, I would be reluctant to get up here and suggest that you should crank down interest rates if I thought these people would be priced out of the market. I'm sure you would agree, Senator, that at some income level, it doesn't make sense to extend credit to consumers. A family making \$12,000 a year probably is not going to be in a position to deal with a \$5000 or \$10,000 line of credit. Moreover, there are alternatives. For example, for the lowest income people today, even if they have bad credit and can't even get a credit card at 19% or 20% interest, they can get a so-called collateralized credit card, and they can enjoy all of the conveniences the rest of their citizens and neighbors enjoy by simply putting a deposit of \$300 to \$500 in a bank. They will get the same conveniences with their card, often at a lower interest rate. There are these alternatives and, of course, there are home equity loans and other types of consumer loans available.

It is true, however, that at some point, the scrutiny would require that at some income level, perhaps a lower income level, there would be a cutoff of the availability of credit to new card holders, to new applicants. But I have to turn this question around a little bit and suggest this -- and this is really in the manner of Senator D'Amato's question when it came up in front of his Banking Committee in Washington. He turned the question around like this: He said, "Is someone who is not credit-worthy at 12%, suddenly credit-worthy at 18% or 20%?"

SENATOR LESNIAK: Absolutely.

MR. HOLSTEIN: Absolutely not.

SENATOR LESNIAK: Absolutely.

MR. HOLSTEIN: The person is no more likely, as a matter of fact is less likely, to be able to afford the 18% interest than the 12% interest.

SENATOR LESNIAK: No, no. I can take that risk. I can absorb that risk because I am making more money.

MR. HOLSTEIN: What happens is, the rest of the card holders, the vast majority of Americans with good credit ratings, subsidize the issuance of credit to those people with bad credit histories.

SENATOR LESNIAK: No doubt; it happens every day.

MR. HOLSTEIN: So, we are talking about essentially punishing the vast majority of consumers with good credit histories in order to continue to extend credit to a small number of people. Instead of debating this issue--

SENATOR LESNIAK: Well, I don't know how small-- I'm sure we are talking basically about low-income people.

MR. HOLSTEIN: The lowest income people.

SENATOR LESNIAK: The lowest income people, most of whom I represent, or Senator Jackman represents, or Senator O'Connor represents. Those same people want to furnish their homes, just like anybody else. They want to buy their children gifts at Christmastime and may not be able to afford it then, so that they can pay it later on. Those same people want that opportunity just as anyone else does.

MR. HOLSTEIN: I find it ironic that I am sitting here making the arguments that the bankers usually make about how the granting of credit is not a God-given right. But, the point is--

SENATOR LESNIAK: Well, I don't listen to bankers, and I don't listen to you or anyone else. I listen to my own mind.

MR. HOLSTEIN: There are two criteria by which -- two general categories of criteria that bankers use to make decisions about issuing credit cards. It is a mistake to assume that annual yearly income -- that annual income is the only criteria they use. If a low-income person has credit, has been using credit, even if it is a case of paying utility bills on time, those folks have good credit histories that enable

them, in many cases, to get -- albeit maybe smaller lines of credit than you or I might be able to get -- credit. As I have mentioned, even for the lowest income consumers, there is, right now, the availability of these so-called collateralized loans and other forms of loans.

So I have to call into question whether or not in the big picture we really are talking about the restriction or the drying up of credit, as the bankers like to suggest in offering those cards.

SENATOR LESNIAK: Then we ought to change Economics I in Paul Samuelson's textbook, because I guess I went at economics the wrong way.

MR. HOLSTEIN: I have no disagreement with Paul Samuelson's textbook. What it talks about is this problem, the need for information out there, and competition.

SENATOR LESNIAK: You're absolutely right, and I think we are going to have to do something about that. Any questions, Senator Cardinale?

SENATOR CARDINALE: Yes. We have been discussing here, with the last couple of witnesses, a potential for changing our current laws so that there is greater flexibility in upward and downward movement of rates on credit cards. It has been predicted that if we were to do that, we would have lower rates without ever setting a rate -- that we would have lower effective rates today on a voluntary basis by the institutions. How do you feel about that?

MR. HOLSTEIN: Well, when the testimony was offered several minutes ago, I noticed a number of the members of the industry shaking their heads, so perhaps that question is better directed to them. In general, I support the notion of variable ceilings. In fact, there is a variable ceiling in Washington State and in Arkansas right now, which we believe is giving consumers a fair deal. I would have to see the exact language. I find myself, frankly, dubious about whether or not

simply permitting this variation -- whether or not that would, in itself, bring about a change. But, it is certainly worth pursuing. It is certainly worth pursuing.

SENATOR LESNIAK: Thank you very much for your testimony.

MR. HOLSTEIN: Thank you.

SENATOR LESNIAK: Al Griffith, New Jersey Bankers Association.

A L F R E D H. G R I F F I T H: Mr. Chairman and members of the Committee, there really is not too much more that I can offer. Pretty much of what the banking community has said expresses the concerns of the Association. If it were desirable and market wise for a bank to go below its present rate -- the 15% or 14% -- they would do it right now. The law wouldn't limit them or prohibit them from doing it. It is obvious in the marketplace that the place where they are puts them in a competitive position with the credit card community.

Most important and significant, I think, from the standpoint of the New Jersey Bankers Association -- the people we represent -- is the impact of this legislation on our New Jersey-based institutions. It is clear from the testimony which was given by a number of our banks that since 1981, there has been a substantial increase in the amount of credit made available to New Jerseyans through our New Jersey-based institutions -- very substantial -- with an obvious, very important spin-off effect on our communities. There has been an increase in the number of people, and the socioeconomic levels of people, who have had credit extended to them.

The effect of this legislation, as we see it -- what our council indicates -- is the fact that a national bank outside the State of New Jersey would continue to remain unfettered in its ability to offer credit in New Jersey at any rate and condition it so desired, while we would be hamstrung to some index which probably would not be realistic and, in

effect, would probably cause our banks to consider either restricting their credit policy, or possibly even selling their portfolios, if it were at a point where the index was so restrictive that it wound up being a loss situation.

We very much appreciate the efforts of the Committee, and the nature of the questions you have asked. It is obvious that you have a pretty good grasp of all the points pro and con on the issue. If we can help you in any further way, or provide any kind of specific information for staff, or whatever, constitutional issues, or whatever, we would be most happy to do so.

SENATOR LESNIAK: Senator Cardinale?

SENATOR CARDINALE: Yes. I am going to ask you the same question, Al. Representing a great number of institutions, do you have a feel for -- and I know it just came up today -- whether or not we might see, on a voluntary basis, lower rates, if the institutions had a provision in the law which gave them a quick turnaround?

MR. GRIFFITH: There is, right now -- and what Mr. Coote was referring to -- a provision of advance loan law, which we use, for the most part, for our credit card lending, that has language in it that any adjustment in the rate has to be made -- initially with a 30-day notice, and then there is a 90-day notice, and then any time thereafter a 30-day notice. It also requires that there be advance approval any time the bank decides to increase the rate. And that is a problem for our banks presently in New Jersey. There is a thought within our organization that perhaps we could attempt to have, however, and most importantly, as an alternative basis, or as an (indiscernible) of approach to credit card lending, a true variable rate consumer lending law, which would give the institutions the greatest amount of flexibility in terms of their outside index, and also would eliminate a conflict in notice periods and approval of customers before the change was accessed.

That would substantially help some of our banks which might want to use the credit card on a variable rate basis. We had that embodied, somewhat, in a bill that moved through the Legislature a year or two ago -- the Market Rate Consumer Loan Act -- which was designed to provide for variable rate lending in the closed-end area, as well as the revolving area. By the time it reached the LIP Committee, the Banking Department indicated they wanted to more or less dismantle the variable rate aspect of revolving credit, including credit card credit, so much of the change that Mr. Coote was alluding to was taken out.

But, it was understood, and it still remains fairly well understood, that if legislation like that were enacted, there might be some banks which might be willing to do that, and to have a variable rate credit card. But, to have it be the only law, or the only way by which a bank could do it to compete in the national market would probably be a serious problem for a lot of the rest of our banks.

SENATOR LESNIAK: But they can't do it now, based on the regulations.

MR. GRIFFITH: That is correct. They would need these notification requirements and the approval before any increase in rate could be permitted.

SENATOR CARDINALE: You are suggesting that if we do it, we do it as an adjunct to the present system, rather than an alternative to the present system.

MR. GRIFFITH: I guess what I am saying is, if it were to be enacted, but it were to be just another approach of banks so the banks that wanted to continue to do it the way they are doing now to be competitive in the national market, that they would be able to continue to do that. However, perhaps this might be something on the books that might give banks that alternative, if they chose to use it. The First National in Toms River chose the 15% approach, and they feel comfortable

with it. Perhaps maybe some banks might want to use that. But, if that became the only game in town, and the only way to do it, I think--

SENATOR LESNIAK: I don't think Senator Cardinale is saying that. He is saying that this may add competition--

MR. GRIFFITH: Yeah, it would be another approach that could be used and, again, there may be some banks that would embrace it.

SENATOR CARDINALE: I just asked Dale to draft that, and if the Chairman would like to cosponsor it--

SENATOR LESNIAK: Well, I will look at it more closely, but I certainly would seriously consider it.

SENATOR CARDINALE: Maybe we could post it for the next meeting.

MR. GRIFFITH: We have some very rough language that reaches to that, as well as all revolving closed-end credit. If you want to do the whole thing at once, that would be nice. But, that is beyond credit cards.

SENATOR LESNIAK: Okay. Thank you.

MR. GRIFFITH: I want to thank you again. This Committee really asked a lot of very probing questions. I think you have a pretty good grasp on all the issues involved. Thank you so much.

SENATOR LESNIAK: Thank you. Sam Damiano.

SAMUEL J. DAMIANO: Thank you, Mr. Chairman, Senator Cardinale. Savings banks, as I note in my prepared statement -- which all of you should have before you -- are relatively new entries into the credit card market, but, nevertheless, I thought it important that we at least make ourselves available to the Committee in the event that you might have questions of our industry.

The sum and substance of our statement is that we enjoy the fact that with deregulation now in its final stages as of March 31, we continue to operate on both sides of the

ledger in that same type of environment. Thus, any proposal to reimpose interest rate ceilings would be met with strong objection, and we try to convey that message in our statement.

The subject of a variable rate, Senator, is not addressed in my statement, but I might anticipate your question by saying that, if the law doesn't allow for it -- and it didn't allow for reverse annuity mortgages or graduated payment adjustable mortgages years ago -- in the foresight of the Legislature, they saw fit to enact it into law. It sits on the books, and someday it may be available. Someday, someone may see an opportunity to put that type of program into motion.

I think if there are ways of complimenting what is now available to the lending community and to the consuming community, we would certainly support it, having the review of such legislation, understanding full well that any type of ceiling would probably be met with strong objection.

There are two quotes I would like to refer to in my paper, if I may. On page 2, I refer to the Federal Reserve Board testifying before the United States Senate Banking Committee recently, where they let it be known that they opposed legislation that would set ceilings on interest rates that may be charged by banks and other issuers of credit cards. They argued, and I quote: "Regulatory measures can have unpredictable and unwarranted consequences," suggesting that the issuances of cards to fewer people by credit card companies could be a direct result of artificial ceilings, and that such an action could make it more difficult for low-income people to gain access to credit opportunities.

That is not a profound statement. It has been said repeatedly throughout this entire session. Coming more closely to home, Dr. Paul Nadler, Professor of Finance at the Graduate School of Management, Rutgers University, has said on the subject, and I quote: "Under the guise of protecting the borrower, we are really limiting his ability to borrow and his freedom to obtain the money he wants and is willing to pay for."

Ideally, we would rather see adequate disclosure to the public so that there is no question. The consumer should know the terms under which he or she is borrowing, and we wholeheartedly endorse this as the more viable alternative to the imposition of any controls, especially during this stage of deregulation.

To that end, we believe S-1561 -- if it touches on all providers of credit -- would accomplish that objective.

I thank you.

SENATOR LESNIAK: Thank you, Mr. Damiano. Last, but certainly not least, Jim Morford from the New Jersey State Chamber of Commerce.

J A M E S C. M O R F O R D: Thank you, Mr. Chairman. I am Jim Morford, Vice President of Government Relations, New Jersey State Chamber of Commerce. I thank you for the opportunity to address this issue today.

You have heard a great deal of expert testimony on this subject. I do not come here pretending to bear any of that expertise, but will just try to reflect at least, and very briefly, the views of the Chamber of Commerce.

Before I begin, I just might add, Sam quoted briefly from a statement made by a member of the Board of Governors of the Federal Reserve System. If that has not yet been offered, I would like to ask your permission, Mr. Chairman, to include that as an appendix to a formal statement I will submit before the closing of the record. I think the statement by Mr. Emmett Rice, who is a member of the Board of Governors of the Federal Reserve System, is enlightening on the subject, and I would like your permission to include that.

SENATOR LESNIAK: Oh, absolutely.

MR. MORFORD: Thank you. I remember sitting in the Legislature, maybe a decade ago, and listening to the debate as interest rates were soaring in New Jersey, the need to increase the usury law limits from some 20% to about--

SENATOR LESNIAK: Not quite 10 years ago.

MR. MORFORD: --30%. Well, time-- Was it seven years ago? It was back in the '70s, I do remember. Was it the late '70s?

SENATOR CARDINALE: It was after '79.

MR. MORFORD: It was after '79? I remember the debate time, anyway, and we did increase it so that credit would be more available to the residents of the State, when it indeed wasn't available. We still believe that that is the law which should govern. We think, at least in our view, that interference in the marketplace is not recommended.

SENATOR LESNIAK: You are basically against interference in the marketplace?

MR. MORFORD: That is correct. Surprise!

SENATOR LESNIAK: Well, I am surprised, but that is for another day.

MR. MORFORD: That is another issue, Senator. (laughter) You never let me off that hook, do you?

You have heard a great deal today -- and I would only just very briefly reenforce it -- that obviously the cost of money -- the cost of funds -- is certainly not the only factor related to the cost of credit. We think that is a very important consideration throughout your deliberations. The extension of credit, of course, is a privilege, as well as a marketing device. I don't think we should overlook the fact that it is a marketing device. Retail credit is issued by department stores. Because one issues credit, another one will do it.

SENATOR LESNIAK: We have heard a lot of testimony on the credit card itself. From your expertise with the State Chamber of Commerce, I would really like to hear what you have to say about how this impacts upon New Jersey in terms of its competitiveness with other states.

MR. MORFORD: Well, you hit it precisely. If New Jersey moves alone, or virtually alone, in this issue to restrict, or by some mechanism interfere with the market setting the interest rates within, again, the parameters of the usury law, we think that would tend to put us at a competitive disadvantage, whether it be for bank cards or whether it be for the extension of retail credit, vis-a-vis New York and Philadelphia, where shoppers could go. It may outbalance the sales tax advantage we now have over those states.

So, we do think it could have a negative effect. It could have a negative effect -- you have heard this also -- on some of the very consumers who depend on credit -- and you, yourself, have addressed this -- to extend their payments. We would urge you not to encourage legislation that would interfere with the free market, would establish some artificial legislated interest rate. The market will find its level.

Thank you.

SENATOR LESNIAK: Senator Cardinale?

SENATOR CARDINALE: No questions.

SENATOR LESNIAK: Thank you very much, Mr. Morford, and I thank everyone for coming and for staying.

(HEARING CONCLUDED)

7

APPENDIX

TESTIMONY OF
THE DEPARTMENT OF THE PUBLIC ADVOCATE
OF THE STATE OF NEW JERSEY

ON
SENATE BILL NOS. 1560, 1561,
1562, 1563 and 1632
CONCERNING CREDIT
CARD INTEREST RATES

BEFORE THE
NEW JERSEY SENATE LABOR,
INDUSTRY AND PROFESSIONS COMMITTEE

Louis S. Raveson
Assistant Commissioner
Department of the Public Advocate
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April 17, 1986

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

THANK YOU FOR PROVIDING THE DEPARTMENT OF THE PUBLIC ADVOCATE WITH THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO SHARE OUR STRONG CONCERNS REGARDING THE COMPELLING NEED TO TAKE LEGISLATIVE ACTION TO LOWER CREDIT CARD INTEREST RATES. IN OUR OPINION, THE HIGH RATES OF INTEREST CURRENTLY BEING IMPOSED ON NEW JERSEY CONSUMERS HIGHLIGHT THE NEED TO REINSTITUTE THE CONTROLS OVER CREDIT CARD LENDING THAT WERE LEGISLATIVELY REMOVED IN 1981. THE PROMISE OF INTEREST RATE DEREGULATION -- THAT INCREASED COMPETITION WOULD BENEFIT CONSUMERS -- HAS NOT MATERIALIZED. INSTEAD, NEW JERSEY CONSUMERS HAVE PAID MILLIONS OF DOLLARS IN EXCESSIVE CREDIT CARD INTEREST. THEREFORE, WE STRONGLY URGE THAT A CEILING ON THESE INTEREST RATES BE ENACTED.

THE NEED TO PROVIDE RELIEF TO NEW JERSEY CONSUMERS IS CLEAR ACCORDING TO STATISTICS FROM THE FEDERAL RESERVE BOARD, INTEREST RATES PAID BY BANKS AND COMMERCIAL BORROWERS HAVE STEADILY DECLINED DURING THE PAST FOUR YEARS AND HAVE FALLEN

TO LESS THAN HALF OF THEIR FORMER LEVELS. THE PRIME RATE, WHICH PEAKED AT 20.5% IN THE SUMMER AND FALL OF 1981, HAS FALLEN DRAMATICALLY TO 9%. THE DISCOUNT RATE, WHICH IS THE RATE CHARGED BY THE FEDERAL RESERVE TO BANKS FOR SHORT-TERM BORROWING, PEAKED AT 14% DURING THE SAME PERIOD AND NOW STANDS AT JUST 7%. BOTH RATES ARE AT THEIR LOWEST LEVELS SINCE 1978.

CONSUMER INTEREST RATES, IN CONTRAST, REMAIN HIGH. THE FEDERAL RESERVE BOARD'S SURVEY OF CONSUMER-RELATED INTEREST RATES CONFIRMS THAT BANKS HAVE FAILED TO PASS ALONG THESE LOWER INTEREST RATES TO CONSUMERS. CONSUMER RATES HAVE, IN SOME CASES, EVEN RISEN DESPITE THE CONSISTENT DOWNWARD TREND IN ALL OTHER INTEREST RATES.

NEW JERSEY CREDIT CARD HOLDERS ARE ALL TOO AWARE OF THIS DRAMATIC DISPARITY. ACCORDING TO THE FEDERAL RESERVE BOARD, CREDIT CARD INTEREST RATES CHARGED BY COMMERCIAL BANKS ACROSS THE COUNTRY AVERAGED 17.8% IN AUGUST OF 1981. ONE YEAR LATER, WHILE THE PRIME DROPPED MORE THAN 5%, THE CREDIT CARD RATE HAD ACTUALLY INCREASED, CLIMBING TO 18.7%. IN THE NEARLY FOUR YEARS SINCE, WHILE BOTH THE PRIME AND DISCOUNT RATE

CONTINUED THEIR DRAMATIC DECLINE, CREDIT CARD RATES REMAINED ESSENTIALLY UNCHANGED, FLUCTUATING BETWEEN 18% AND 18.85%, A RECORD HIGH.

A RECENT SURVEY BY THE DEPARTMENT OF THE PUBLIC ADVOCATE CONFIRMS THAT NEW JERSEY HAS FOLLOWED THIS NATIONAL TREND. INFORMATION COLLECTED IN THE FIRST TWO WEEKS OF APRIL FROM FIFTY-EIGHT STATE AND FEDERALLY-CHARTERED BANKS IN NEW JERSEY THAT ISSUE CREDIT CARDS REVEALED THAT THE AVERAGE INTEREST RATE CHARGED ON CREDIT CARDS WAS 18.4%. RATES CHARGED BY THESE BANKS RANGED AS HIGH AS 19.8%. WITH ONLY ONE BANK, THE FIRST NATIONAL BANK OF TOMS RIVER, CHARGING SIGNIFICANTLY BELOW THE OTHERS. IT REPORTED CHARGING 15% ON ITS CREDIT CARD ACCOUNTS.

THAT BANKS HAVE CHOSEN TO KEEP CREDIT CARD INTEREST RATES EXCESSIVELY HIGH IS WELL KNOWN. WHAT IS LESS WELL KNOWN IS THE TOTAL IMPACT OF THESE RATES -- IN DOLLARS AND CENTS -- ON CONSUMERS. ACCORDING TO INDUSTRY STATISTICS, THERE ARE OVER 700 MILLION CREDIT CARDS IN CIRCULATION IN THE UNITED STATES TODAY. ALMOST HALF OF ALL AMERICANS HAVE AT

LEAST ONE CREDIT CARD. THESE MILLIONS OF CREDIT CARD HOLDERS ALSO MAINTAIN SUBSTANTIAL AND EVER-GROWING CREDIT BALANCES IN THEIR ACCOUNTS. ACCORDING TO FEDERAL RESERVE BOARD STATISTICS AND PRIVATE STUDIES, TOTAL CREDIT CARD DEBT HAS SOARED IN THE LAST THREE YEARS, AND IS EXPECTED TO DOUBLE DURING THE SECOND HALF OF THE 1980s. CONGRESSIONAL STUDIES ESTIMATE THAT CONSUMERS PAID CLOSE TO \$20 BILLION IN INTEREST ON THEIR CREDIT CARDS LAST YEAR, HAVING PAID APPROXIMATELY \$16 BILLION IN 1984. THIS MEANS THAT CONSUMERS PROBABLY PAID BANKS AND OTHER CREDIT CARD ISSUERS ALMOST \$5 BILLION MORE THAN THEY WOULD HAVE IF RATES HAD AVERAGED A MORE REASONABLE 15%. AS REPRESENTATIVE SCHUMER OF NEW YORK HAS NOTED, THESE EXCESSIVE INTEREST CHARGES SUGGEST THAT WHILE CONSUMERS HAVE BECOME "SO WORLDLY AND SO WELCOME," CREDIT CARD LENDERS HAVE BECOME SO WEALTHY.

ON TOP OF THESE EXCESSIVE INTEREST RATE CHARGES, BANKS THAT ISSUE CREDIT CARDS HAVE ADDITIONAL SOURCES OF PROFITS. ANNUAL FEES, FOR WHICH NEW JERSEY CONSUMERS ARE BILLED AS MUCH AS \$25 A YEAR, BRING IN AN ESTIMATED \$3 BILLION NATIONALLY. BANKS

HAVE BEGUN TO IMPOSE OTHER TYPES OF FEES ON CONSUMERS AS WELL, SUCH AS FEES FOR FAILING TO MAKE MINIMUM PAYMENTS, FEES FOR EXCEEDING CREDIT LIMITS, FEES FOR CASH ADVANCES, EVEN FEES FOR COPIES OF SALES SLIPS AND DUPLICATE MONTHLY STATEMENTS. IN ADDITION, RETAILERS THAT ACCEPT BANK CREDIT CARDS ARE ALSO CHARGED FEES RANGING FROM ONE TO FIVE PERCENT OF ALL CREDIT CARD PURCHASES. THESE FEES ADD SEVERAL BILLION DOLLARS ANNUALLY TO REVENUES.

AT THE SAME TIME THAT BANKS AND OTHER CREDIT CARD ISSUERS HAVE GREATLY INCREASED THEIR CHARGES, THEY HAVE SEEN THEIR OVERALL COSTS DECLINE SIGNIFICANTLY. ALL CREDIT CARD ISSUERS INCUR THREE TYPES OF CREDIT CARD RELATED EXPENSES. THE FIRST IS THE COST OF ADMINISTERING ACCOUNTS. THE AMERICAN BANKERS ASSOCIATION HAS STATED THAT ADMINISTRATIVE EXPENSES FOR CREDIT CARD ACCOUNTS ARE LOWER THAN THOSE INCURRED BY BANKS FOR A SMALL INSTALLMENT LOAN. MOREOVER, ACCORDING TO INDUSTRY SOURCES, THESE EXPENSES HAVE RECENTLY BEEN DECREASING NEW EQUIPMENT HAS RAISED PRODUCTIVITY, AND INCREASED VOLUME HAS PERMITTED ECONOMIES OF SCALE. EXPERTS ESTIMATE THAT AT AN

WELL-MANAGED INSTITUTION OF MODERATE SIZE THESE ADMINISTRATIVE EXPENSES SHOULD NOT EXCEED TWO OR THREE PERCENT OF OUTSTANDING BALANCES.

THE SECOND CATEGORY OF COSTS IS LOSSES DUE TO BAD DEBTS AND FRAUD. ACCORDING TO FIGURES FROM THE NILSON REPORT, THE AUTHORITATIVE CREDIT CARD INDUSTRY PUBLICATION, INDUSTRY LOSSES ON ALL TYPES OF CREDIT CARDS HAVE AVERAGED \$1 FOR EVERY \$100 IN CHARGE VOLUME FOR THE PAST 30 YEARS, AND ARE EXPECTED TO AVERAGE \$1.15 OVER THE NEXT FIVE YEARS. 85% OF THESE LOSSES ARE DUE TO BAD DEBTS (SUCH AS NON-PAYMENT, DELINQUENCY AND BANKRUPTCY) AND THE REST ARE A RESULT OF FRAUD (BY MERCHANTS, CARDHOLDERS AND CRIMINALS). THESE LOSSES COULD, OF COURSE, BE SUBSTANTIALLY REDUCED BY RESTRICTING THE PRACTICE BY SOME BANKS OF ISSUING CARDS INDISCRIMINATELY TO BOTH GOOD CREDIT RISKS AND BAD.*

* No doubt almost everyone in this room has received solicitations in the mail stating that you have been pre-approved for a credit card with a credit line of several thousand dollars. Workshops are advertised on how to get up to a hundred credit cards -- even with a poor credit history. Banks and other credit card issuers are so eager to profit from this business that many have stopped acting prudently in granting credit. This practice serves no one -- not the individual consumer, who is being invited to take on more credit than he or she can reasonably afford, not the other account-holders, who are forced to subsidize the results of the banks' imprudent decisions, and not the banks, whose financial health could be at jeopardy if this practice continues.

AS THE WALL STREET JOURNAL RECENTLY REPORTED, "IN THE FRENZIED SEARCH [BY CERTAIN BANKS] FOR NEW CUSTOMERS, PRISONERS, UNEMPLOYED TEEN-AGERS, EVEN A FEW HOUSEHOLD PETS HAVE RECEIVED CREDIT CARDS." THUS, WHILE THIS CATEGORY OF EXPENSES IS INCREASING SLIGHTLY, MUCH OF IT IS DUE TO THE BANKS' OWN POLICIES.

THE FINAL CATEGORY OF EXPENSES IS THE COST OF BORROWING FUNDS, MUCH OF WHICH IS SUPPLIED AT LOW RATES BY THE FEDERAL RESERVE AND BY CONSUMER DEPOSITORS FOR BANKS, AND BY COMMERCIAL PAPER FINANCING AT MARKET RATES FOR OTHER ISSUERS. AS NOTED ABOVE, THE COST OF BORROWING THESE FUNDS HAS DROPPED BY HALF OVER THE PAST FEW YEARS.

IN SUM, THE EXPENSES ASSOCIATED WITH ISSUING AND MAINTAINING CREDIT CARDS HAVE DROPPED OVER THE PAST FEW YEARS, WHILE CREDIT CARD INTEREST RATES AND OTHER CHARGES HAVE NOT. THE RESULT HAS BEEN RECORD PROFITS FOR THE BANKS AND OTHER INSTITUTIONS ISSUING THESE CARDS. AND THESE PROFITS ARE COMING RIGHT OUT OF THE POCKETS OF CONSUMERS.

THE HISTORICAL ROOTS OF THIS PROBLEM PROVIDE AMPLE JUSTIFICATION FOR LEGISLATIVE INTERVENTION AT THIS TIME. INTEREST RATES IN 1980 AND 1981 WERE EXTREMELY VOLATILE AND RISING, WITH CHANGES IN CONSUMER INTEREST RATES LAGGING BEHIND CHANGES IN THE PRIME RATE. THEN, IN 1981, IN RESPONSE TO REQUESTS FOR RELIEF FROM THE BANKING INDUSTRY, CONSUMER INTEREST RATES WERE DEREGULATED IN NEW JERSEY. BANKS WERE GIVEN THE FREEDOM TO CHARGE ANY INTEREST RATE BELOW THE 30% CRIMINAL USURY CEILING. AS A RESULT, INTERST RATES ON SUCH LOANS WERE QUICKLY AND SHARPLY RAISED BY BANKS. IN THE FIVE YEARS SINCE DEREGULATION, INTEREST RATES CHARGED TO LARGE BUSINESS BORROWERS HAVE DECLINED SHARPLY AND STEADILY. MANY CONSUMER RATES, HOWEVER, HAVE REMAINED VIRTUALLY UNCHANGED. HIGH MARKET RATES OF INTEREST ARE APPARENTLY A THING OF THE PAST, BUT BANKS ARE CHARGING CONSUMERS AS IF NOTHING HAD CHANGED SINCE 1981.

COMPETITION BY ITSELF HAS FAILED TO BRING THESE RATES DOWN, AND SHOULD NOT BE TRUSTED TO DO SO IN THE FUTURE. THIS SHOULD COME AS NO SURPRISE, GIVEN THE NATURE OF CONSUMER LENDING IN

GENERAL AND THE CREDIT CARD MARKET IN PARTICULAR. CONSUMERS HAVE LITTLE EFFECTIVE BARGAINING POWER IN THIS AREA, PERCEIVING THAT THEY ARE FORCED TO ACCEPT WHATEVER RATES BANKS DECIDE TO IMPOSE. CONSUMERS ALSO HAVE LITTLE OR NO CHOICE IN SELECTING THE BEST INTEREST RATE FOR THEIR CREDIT CARD ACCOUNTS. AS THE PUBLIC ADVOCATE'S SURVEY DISCLOSED, MAJOR BANKS IN NEW JERSEY ALL CHARGE CLOSE TO THE SAME RATE. CONGRESSIONAL TESTIMONY ON THIS ISSUE HAS ALSO SUGGESTED THAT SOME CONSUMERS THINK THAT THEY WERE FORTUNATE TO BE ISSUED A CREDIT CARD IN THE FIRST PLACE, AND OFTEN DON'T REALIZE THAT THEY HAVE THE OPTION OF OPENING ANOTHER ACCOUNT AT A BANK OFFERING BETTER TERMS. FINALLY, SHIFTING CREDIT CARD ACCOUNTS INVOLVES CONSIDERABLE TIME, EXPENSE AND INCONVENIENCE. ONE SIGNIFICANT OUT-OF-POCKET EXPENSE IS THE ANNUAL FEE, WHICH, BECAUSE IT IS CHARGED IN A LUMP SUM AT THE BEGINNING OF THE YEAR, INHIBITS CONSUMERS FROM CHANGING ACCOUNTS. FOR ALL THESE REASONS, THE DEMAND FOR CREDIT CARDS IS, IN THE LANGUAGE OF ECONOMICS, "INELASTIC," WHICH MEANS THAT COMPETITION DOES NOT PLAY AN EFFECTIVE ROLE IN KEEPING THESE RATES DOWN.

THE SIMPLE FACT THAT THERE ARE MANY BANKS ISSUING CREDIT CARDS SHOULD NOT BE INTERPRETED AS MEANING THAT THERE IS COMPETITION IN THIS MARKET. THE LARGE NUMBER OF SUCH PROVIDERS CONSTITUTES A NECESSARY, BUT NOT A SUFFICIENT, CONDITION FOR A COMPETITIVE MARKET. SUCH A MARKET ONLY EXISTS IF THE MARKET ITSELF SETS INTEREST RATES, NOT UNILATERAL ACTION BY THE BANKS. AS FEDERAL RESERVE BOARD GOVERNOR J. CHARLES PARTEE AND ASSISTANT SECRETARY OF THE TREASURY MANUAL JOHNSON HAVE BOTH STATED, MOST CONSUMER LOAN RATES ARE "ADMINISTERED RATES," MEANING THAT THEY ARE LARGELY THE RESULT OF POLICY DECISIONS BY BANKS RATHER THAN MARKET FORCES.

BECAUSE COMPETITION ALONE CAN'T PROVIDE THIS NECESSARY RELIEF, THE ONLY RECOURSE FOR THE CITIZENS OF THIS STATE IS LEGISLATIVE ACTION TO BRING THESE RATES DOWN. CURRENTLY, THE ONLY CONTROL ON CREDIT CARD INTEREST RATES IS NEW JERSEY'S CRIMINAL USURY RATE. THIS CEILING, WHICH WAS SET AT 30% IN 1981, IS THE HIGHEST SUCH CEILING IN THE COUNTRY. IT IS

EMBARASSING THAT OUR STATE, WHICH HAS HAD SUCH A STRONG TRADITION OF PROTECTING CONSUMERS, SHOULD HAVE THIS EXTRAORDINARILY HIGH USURY RATE. MANY STATES WITH THRIVING BANKING INDUSTRIES (SUCH AS CONNECTICUT, NEW YORK, PENNSYLVANIA, FLORIDA AND WASHINGTON) HAVE USURY CEILINGS SUBSTANTIALLY BELOW OURS. SEVERAL STATES SET THE USURY CEILING AS A FLOATING RATE, WHICH VARIES ACCORDING TO CHANGES IN AN UNDERLYING MARKET OR "REFERENCE" RATE. FOR EXAMPLE, THE ARKANSAS USURY RATE IS SET AT 5% OVER THE FEDERAL RESERVE BOARD'S DISCOUNT RATE, WHICH IS CURRENTLY 7%. AS A RESULT OF THIS FLOATING CEILING, CONSUMERS IN ARKANSAS ARE TODAY PAYING ONLY 12% ON THEIR CREDIT CARDS.

THE PUBLIC ADVOCATE RECOMMENDS THAT EFFECTIVE LEGISLATIVE CONTROLS OVER CREDIT CARD INTEREST RATES BE IMPOSED IN SUCH A MANNER. WHILE THE PUBLIC ADVOCATE SUPPORTS ANY LEGISLATIVE EFFORTS THAT WOULD EFFECTIVELY REDUCE CREDIT CARD INTEREST RATES, WE WOULD URGE ENACTMENT OF A FLOATING CEILING TIED TO A LONGER-TERM, AND THUS LESS VOLATILE, REFERENCE RATE. SPECIFICALLY WE RECOMMEND THAT SUCH A CEILING BE SET AT 8% ABOVE THE 30-

YEAR TREASURY BOND RATE, WHICH TODAY WOULD RESULT IN A CEILING OF JUST OVER 15%. SINCE MARKET RATES OF INTEREST HAVE DROPPED BY HALF SINCE 1981, THIS 15% RATE IS ROUGHLY EQUIVALENT TO THE 30% USURY CEILING IMPOSED IN THAT YEAR. AND, OF COURSE, BY MAKING IT A FLOATING RATE, THIS CEILING WILL BE RESPONSIVE TO ANY CHANGES IN THE ECONOMY.

REDUCING CREDIT CARD INTEREST RATES TO AROUND 15% STRIKES A FAIR BALANCE BETWEEN THE BANKING INDUSTRY'S NEED TO BE ASSURED OF THE OPPORTUNITY TO EARN A FAIR RETURN ON THIS LINE OF BUSINESS AND THE RIGHT OF CONSUMERS TO BE FREE FROM EXCESSIVE RATES OF INTEREST. BANKS CERTAINLY STILL WILL BE ABLE TO MAKE A HEALTHY PROFIT AT THESE RATES. AS NOTED ABOVE, FEDERAL FIGURES SUGGEST THAT BANKS REQUIRE RATES NO MORE THAN 5% OVER THEIR COST OF FUNDS TO MAKE A PROFIT ON CREDIT CARDS -- 3% FOR ADMINISTRATION AND LESS THAN 2% FOR BAD DEBTS. GIVEN THE CURRENT COST OF FUNDS OF LESS THAN 8%, THIS STILL LEAVES A GENEROUS 2% MARGIN FOR PROFIT OR COMPETITION.

THAT BANKS CAN STILL MAKE MONEY ON CREDIT CARD OPERATIONS AT SUCH RATES OF INTEREST IS CONFIRMED BY THE LOW RATES

CHARGED BY A FEW BANKS AROUND THE COUNTRY. BANKS IN ARKANSAS, WHICH TODAY BY LAW CAN CHARGE NO MORE THAN 12% ON CREDIT CARD BALANCES, REPORT THAT THEIR CREDIT CARD OPERATIONS REMAIN PROFITABLE AT THAT RATE. THE LOW USURY CEILING HAS MADE THAT STATE'S BANKS MORE CAREFUL ABOUT WHOM THEY EXTEND CREDIT TO, BUT THE BANK OFFICIALS WE SPOKE WITH STATED THAT THEIR POLICIES WERE JUST COMMON SENSE: THEY WOULD ONLY LEND TO PEOPLE -- WHATEVER THEIR INCOME -- WHO COULD PAY THEIR BILLS. EVEN IN NEW JERSEY WE HAVE ONE BANK, THE FIRST NATIONAL BANK OF TOMS RIVER, THAT HAS BEEN CHARGING 15% ON CREDIT CARD BALANCES FOR SOME TIME. THESE BANKS AND THE OTHERS AROUND THE COUNTRY THAT ARE CHARGING THEIR CREDIT CARD CUSTOMERS LESS THAN 15% CONFIRM THE FACT THAT BANKS CAN CHARGE THESE RATES AND STILL REMAIN PROFITABLE.

THE IMPACT ON CONSUMERS OF A 15% CEILING WOULD BE ENORMOUS. ASSUMING THAT NEW JERSEY CREDIT CARD USERS FOLLOW NATIONAL AVERAGES, THE IMMEDIATE SAVINGS FOR OUR STATE'S CONSUMERS ARE ESTIMATED TO EXCEED \$50 MILLION ANNUALLY, AND WOULD EXCEED \$100 MILLION IF OUT-OF-STATE ISSUERS ARE FORCED TO BRING THEIR

RATES DOWN AS WELL. THESE SUBSTANTIAL SAVINGS WOULD ALSO FURTHER FUEL OUR STATE'S ECONOMIC GROWTH, AS CONSUMERS RETURN THESE FUNDS TO THE ECONOMY THROUGH CONSUMER SPENDING.

BANKS AROUND THE COUNTRY HAVE RAISED SEVERAL OBJECTIONS TO LEGISLATIVE CONTROLS OVER CREDIT CARD INTEREST RATES BY THE STATES. THE FIRST IS THAT THIS IS A MATTER BEST LEFT FOR REGULATION BY THE FEDERAL GOVERNMENT. THE PUBLIC ADVOCATE STRONGLY DISAGREES. WHILE FEDERAL EFFORTS TO PROTECT CONSUMERS IN THIS AREA WOULD CERTAINLY BE WELCOME, THE REGULATION OF INTEREST RATES HAS LONG BEEN THE PROVINCE OF THE INDIVIDUAL STATES, WITH LIMITED EXCEPTIONS WHERE THE FEDERAL GOVERNMENT HAS PRE-EMPTED STATE AUTHORITY, SUCH AS WITH FIRST MORTGAGES. THEREFORE, THE NEW JERSEY LEGISLATURE HAS BOTH THE POWER AND THE HISTORIC RESPONSIBILITY TO CONTROL THESE INTEREST RATES.

SECOND, NEW JERSEY BANKS HAVE ARGUED THAT BEING SUBJECT TO A 15% CEILING WOULD PUT THEM AT A COMPETITIVE DISADVANTAGE, SINCE OUT OF STATE BANKS WOULD STILL BE ABLE TO CHARGE HIGHER RATES, AND THEREFORE WOULD BE MORE PROFITABLE. THEY POINT TO THE FACT THAT MANY NEW JERSEY RESIDENTS HOLD CREDIT CARDS ISSUED BY OUT-

OF-STATE BANKS SUCH AS CITIBANK, MELLON BANK OR CHASE MANHATTAN
BECAUSE NEW JERSEY LAW CAN'T CONTROL THE INTEREST RATES IMPOSED
BY THESE OUT-OF-STATE ISSUERS, THEY ARGUE THAT THESE BANKS
WOULD STILL BE ABLE TO CHARGE THEIR CURRENT EXCESSIVE RATES,
CREATING A COMPETITIVE DISADVANTAGE FOR NEW JERSEY BANKS.
WE DISAGREE. BEING REQUIRED TO CHARGE A REASONABLE INTEREST
RATE IS NO DISADVANTAGE. INDEED, THIS LOWER CEILING CREATES
A POWERFUL COMPETITIVE EDGE FOR OUR STATE'S BANKS. NEW
JERSEY BANKS WOULD BE ABLE TO ADVERTISE THEIR NEW LOW RATES
ALL OVER THE COUNTRY, AND LURE NEW ACCOUNTS AWAY FROM BANKS
CHARGING HIGHER RATES. PRECISELY THIS PHENOMENON IS OCCURRING
IN ARKANSAS, WITH THE CREDIT CARD-ISSUING BANKS IN THAT STATE
REPORTING THAT THEY ARE FLOODED WITH REQUESTS FOR NEW
ACCOUNTS FROM THROUGHOUT THE COUNTRY. THESE NEW NATION-WIDE
ACCOUNTS WOULD OFFER NEW JERSEY BANKS A REAL OPPORTUNITY FOR
THE FUTURE, AS WE MOVE INTO THE ERA OF INTERSTATE BANKING.
THEREFORE, THE PUBLIC ADVOCATE REJECTS THE NOTION THAT IMPOSING
AN INTEREST RATE CEILING WOULD BE UNFAIRLY DISADVANTAGEOUS TO

NEW JERSEY BANKS.*

THERE ARE, HOWEVER, INDIRECT WAYS TO ENSURE THAT THE INTEREST RATES CHARGED BY CITIBANK AND THE OTHER OUT-OF-STATE ISSUERS, DO NOT EXCEED THE NEW JERSEY CEILING. THREE OF THE BILLS BEFORE THE COMMITTEE USE ONE APPROACH, WHICH IS TO PREVENT THE OPERATION IN NEW JERSEY OF ANY LOAN PRODUCTION OFFICES OWNED BY OUT-OF-STATE ISSUERS CHARGING MORE THAN THE PERMITTED RATE. IN ADDITION, DESPITE THE INABILITY TO DIRECTLY REGULATE INTEREST RATES, OUR RESEARCH SUGGESTS THAT THE LEGISLATURE HAS THE POWER TO REGULATE MANY NON-RATE ASPECTS OF THE CREDIT CARD OPERATIONS OF OUT-OF-STATE ISSUERS THAT AFFECT NEW JERSEY CARDHOLDERS. THIS REGULATORY POWER CONSTITUTES A VERY EFFECTIVE WAY TO BRING INTEREST RATES IN LINE WITH THE NEW JERSEY CEILING. FOR EXAMPLE, IF CITIBANK AND THE OTHER OUT-

* The non-bank issuers of credit cards in New Jersey, such as department stores and gasoline companies, would face no such hypothetical disadvantage, since they are required to follow the interest rate ceilings of each of the states in which their customers reside. Banks, in contrast, are permitted to charge whatever interest rates are allowed by the state in which they, rather than their customers, are located.

OF-STATE ISSUERS CHOOSE NOT TO FOLLOW NEW JERSEY'S CEILING,
THE LEGISLATURE COULD ENACT A STATUTE RESTRICTING OR
ELIMINATING THE ANNUAL FEE OR OTHER CHARGES ON ALL CREDIT
CARD ACCOUNTS WHICH EXCEEDED THE PERMITTED RATE OF INTEREST.
ANOTHER APPROACH WOULD BE TO REQUIRE THAT CREDIT CARD
BALANCES BE CALCULATED IN A CERTAIN WAY WHEN IMPOSING INTEREST
RATES OVER THIS 15% CEILING. A UNIVERSITY OF VIRGINIA STUDY HAS
INDICATED THAT THERE IS A LARGE DIFFERENCE IN HOW MUCH
INTEREST IS CHARGED TO A GIVEN ACCOUNT WITH THE SAME TRANS-
ACTIONS DEPENDING ON WHICH OF FOUR DIFFERENT ACCOUNTING
METHODS IS USED TO CALCULATE ACCOUNT BALANCES. IF, AFTER
ENACTING AN INTEREST RATE CEILING FOR NEW JERSEY, IT APPEARS
THAT A PROBLEM STILL REMAINS WITH OUT-OF-STATE ISSUERS
CHARGING EXCESSIVE RATES, THESE AND OTHER EFFECTIVE REMEDIES
ARE AVAILABLE TO ADDRESS ANY SUCH PROBLEM. IN ANY EVENT,
THE POSSIBILITY THAT OUT-OF-ISSUERS MIGHT CHARGE A HIGHER
RATE DOES NOT PROVIDE A LEGITIMATE REASON FOR NOT ACTING TO
REDUCE RATES ON CREDIT CARDS FROM NEW JERSEY BANKS AND ON
ALL NON-BANK ISSUERS.

BANKS IN SOME PARTS OF THE COUNTRY HAVE ALSO THREATENED TO MOVE THEIR CREDIT CARD OPERATIONS OUT OF STATE IF INTEREST RATE CEILINGS WERE TO BE IMPOSED. THIS ARGUMENT ALSO NEEDS TO BE CONSIDERED, ALTHOUGH WE FIND IT LACKING IN MERIT. IT SHOULD, OF COURSE, BE NOTED THAT LOCATION IS OF NO CONSEQUENCE TO THE NON-BANK ISSUERS OF CREDIT CARDS, SUCH AS GASOLINE COMPANIES AND DEPARTMENT STORES, BECAUSE THEY MUST FOLLOW THE LAWS OF THE STATES WHERE THEIR CUSTOMERS LIVE. BANKS ARE, THEREFORE, UNIQUE IN THIS AREA. BUT EVEN AS TO BANKS, SIMPLY MOVING THE LOCATION OF THEIR CREDIT CARD OPERATIONS TO ANOTHER STATE WILL NOT ALLOW THEM TO AVOID NEW JERSEY'S INTEREST RATE CEILING. ACCORDING TO OUR RESEARCH, THEY MUST, INSTEAD, ACTUALLY OBTAIN A CHARTER AS A DEPOSITORY INSTITUTION IN THE OTHER STATE AND SELL OR OTHERWISE TRANSFER THEIR CREDIT CARD ACCOUNTS AND OPERATIONS TO THAT NEW ENTITY. NOT ONLY IS THIS COMPLICATED, THERE ARE SEVERAL REASONS WHY IT IS UNLIKELY TO OCCUR. FIRST, AS STATED EARLIER, RATHER THAN BEING A REASON TO LEAVE THE STATE, THE EFFECT OF THE IMPOSITION OF AN INTEREST RATE CEILING IN NEW JERSEY IS LIKELY TO BE A COMPETITIVE ADVANTAGE AND

OPPORTUNITY FOR OUR STATE'S BANKS. GIVEN THE EXPERIENCE OF CREDIT CARD ISSUERS IN STATES LIKE ARKANSAS, THE NEW LOWER RATES MAY BRING A TORRENT OF NEW CUSTOMERS.

SECOND, NEW JERSEY BANKS WILL HAVE LITTLE OR NOTHING TO GAIN BY MOVING OUT OF STATE. WHILE TECHNICALLY THEY CAN ESCAPE NEW JERSEY'S USURY CEILING BY DOING SO, AS NOTED EARLIER THE LEGISLATURE HAS THE POWER TO EFFECTIVELY CREATE A LEVEL PLAYING FIELD FOR BOTH IN-STATE AND OUT-OF-STATE BANKS. ANY BANKS THAT ATTEMPT TO EVADE OUR CEILING BY MOVING ACROSS THE BORDER COULD THUS FIND THAT THEY STILL WILL HAVE TO CHARGE NEW JERSEY CUSTOMERS THE SAME RATE AS NEW JERSEY BANKS OR FACE THE INABILITY TO ESTABLISH LOAN PRODUCTION OFFICES, TO COLLECT ANNUAL FEES AND OTHER CHARGES, OR THE REQUIREMENT THAT THEY CALCULATE BALANCES IN A WAY THAT SIGNIFICANTLY CUTS THEIR TOTAL INTEREST CHARGES.

FINALLY, EVEN IF SOME BANKS DO DECIDE TO SELL THEIR CREDIT CARD OPERATIONS TO OUT OF STATE SISTER BANKS, ANY LOSS OF JOBS

AND TAX REVENUE WILL BE VASTLY OFF-SET BY THE ENORMOUS SAVINGS FOR NEW JERSEY CONSUMERS IN INTEREST CHARGES. AS STATED EARLIER, IF A CEILING OF 15% IS IMPOSED, THESE SAVINGS ARE ESTIMATED TO EXCEED BETWEEN \$50 MILLION AND \$100 MILLION YEARLY, AND COULD BE EVEN GREATER IF MARKET RATES CONTINUE TO GO DOWN. WEIGHING THE CERTAINTY OF THESE SAVINGS AGAINST THE MERE POSSIBILITY OF BANKS MOVING THEIR HIGHLY-AUTOMATED CREDIT CARD OPERATIONS OUT OF STATE CAN ONLY RESULT IN A DECISION IN FAVOR OF A CEILING ON THESE RATES.

SOME BANKS HAVE ALSO ARGUED THAT IMPOSING A CEILING ON CREDIT CARD INTEREST RATES WILL HAVE A HARSH RESULT ON LOW AND MODERATE INCOME RESIDENTS OF NEW JERSEY. SPECIFICALLY, THEY CONTEND THAT FORCING THEM TO LOWER THEIR RATES WILL ALSO FORCE THEM TO BE MORE SELECTIVE ABOUT THOSE TO WHOM THEY ISSUE CREDIT CARDS. IN OUR VIEW, THESE ARGUMENTS ARE DISINGENUOUS. IT IS HARD TO UNDERSTAND HOW THE BANKS MAKING THIS ARGUMENT CAN BELIEVE THAT CHARGING THESE EXCESSIVE RATES SERVES THE INTERESTS OF ANY CONSUMERS, ESPECIALLY LOW AND MODERATE INCOME RESIDENTS OF OUR STATE. FURTHER, INDUSTRY STATISTICS SUGGEST THAT FEW

LOW AND MODERATE INCOME PEOPLE ARE CURRENTLY CREDIT CARD HOLDERS. FINALLY, IF THE NEW LOWER RATES CAUSE BANKS TO BE MORE PRUDENT IN MAKING DECISIONS ABOUT CREDITWORTHINESS, THAT IS A RESULT TO BE ENCOURAGED. OBVIOUSLY IT DOES NO ONE ANY GOOD TO RECEIVE A LOAN THAT HE OR SHE CAN'T AFFORD TO RE-PAY. FOR THESE REASONS, WE REJECT THE NOTION THAT BANKS ARE SOMEHOW LOOKING AFTER THE INTEREST OF POOR PEOPLE BY CHARGING EXORBITANT INTEREST RATES ON THEIR CREDIT CARDS. THIS ARGUMENT IS SIMPLY AN AFTER-THE-FACT RATIONALIZATION FOR THESE HIGH RATES.

IN SUM, THE DEPARTMENT OF THE PUBLIC ADVOCATE STRONGLY URGES THAT EFFECTIVE LEGISLATIVE CONTROLS OF THE TYPE WE HAVE OUTLINED BE ENACTED. JUST AS THE LEGISLATURE WAS RESPONSIVE TO THE BANKING INDUSTRY IN 1981 WHEN CREDIT CARD RATES WERE FIXED AT BELOW-MARKET RATES, SO, TOO, SHOULD THE LEGISLATURE RESPOND TO THE PLEAS OF CONSUMERS IN 1986 WHEN CREDIT CARD RATES REMAIN FIXED AT ABOVE-MARKET RATES. JUST AS BANKS MAY HAVE LOST MONEY ON THEIR CREDIT CARD OPERATIONS PRIOR TO THE DEREGULATION OF RATES, TODAY NEW JERSEY CONSUMERS ARE LOSING MILLIONS OF

DOLLARS AS A RESULT OF THAT DEREGULATION. THE LEGISLATURE HAS THE POWER TO STRIKE A FAIR BALANCE BETWEEN CONSUMERS AND THE BANKING INDUSTRY BY ESTABLISHING A FLOATING CEILING FOR CREDIT CARD INTEREST RATES. BY DOING SO, THE LEGISLATURE WILL BRING IMMEDIATE RELIEF TO THE MILLIONS OF CREDIT CARD HOLDERS IN NEW JERSEY, AND WILL ESTABLISH A CEILING THAT IS RESPONSIVE TO WHATEVER CHANGES IN OUR ECONOMY THE FUTURE BRINGS.

THANK YOU FOR CONSIDERING THE VIEWS OF THE DEPARTMENT OF THE PUBLIC ADVOCATE.

SURVEY OF NEW JERSEY
DEPOSITORY INSTITUTIONS
ISSUING CREDIT CARDS

April 16, 1986

STATE OF NEW JERSEY
DEPARTMENT OF THE PUBLIC ADVOCATE
CN 850
TRENTON, NEW JERSEY 08625

ALFRED A. SLOCUM
Public Advocate

RICHARD E. SHAPIRO
Director
Division of Public Interest Advocacy

JOHN P. THURBER
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SURVEY OF NEW JERSEY DEPOSITORY
INSTITUTIONS ISSUING CREDIT CARDS

Nine-nine depository institutions located in New Jersey were contacted by telephone in the first two weeks of April, 1986. These included federal and state chartered banks, savings banks and savings and loans from throughout the state. Fifty-eight of these institutions reported that they issued credit cards to consumers, either by themselves or in conjunction with another depository institution. Each of these fifty-eight depository institutions was asked to provide its current rate of interest and its annual fee for Visa and Mastercard consumer credit card accounts. The results of this survey are as follows:

<u>Bank Name</u>	<u>Interest Rate</u>	<u>Annual Fee</u>
(1) Amboy-Madison National Bank	19.8%	\$20
(2) Bay State Bank	17.9%	\$18
(3) Broad National Bank of Newark	18. %	\$25
(4) Broad Street National Bank of Trenton	18. %	\$25
(5) Broadway Bank & Trust	19. %	\$25
(6) Carteret Savings & Loan	18. %	\$20
(7) Central Jersey Bank	18. %	\$15
(8) Chatham Trust Co.	18. %	\$20
(9) Citizens First National Bank	18. %	\$15
(10) Commerce Bank, N.A.	18.6%	\$15
(11) Commercial Trust Co. of N.J.	19.5%	\$20
(12) Eastern National Bank	18. %	\$18
(13) First Bank of Colonia	19.8%	\$15
(14) First Fidelity Bank	19.8%	\$15
(15) First Jersey National Bank	18. %	\$15
(16) First Jersey National Bank/South	18. %	\$10
(17) First National Bank of Edison	19.8%	\$15

(18) First National Bank of Kearny	16.8%	No annual fee
(19) First National Bank of Toms River	15. %	No annual fee
(20) First Peoples Bank	18. %	\$15
(21) First State Bank	18. %	\$20
(22) Glendale National Bank	18. %	\$25
(23) Heritage Bank, N.A.	18. %	\$15
(24) Horizon Bank	19.8%	\$15
(25) Howard Savings Bank	18. %	\$18
(26) Independence Bank	18. %	\$20
(27) Lakeland State Bank	18.8%	\$20
(28) Lenape State Bank	18.6%	\$18
(29) Liberty Bank & Trust	19.8%	\$15
(30) Maplewood Bank & Trust	19.8%	\$20
(31) Marine National Bank	19.8%	\$15
(32) Midland Bank & Trust	18. %	\$15
(33) Midland National Bank	18. %	\$15
(34) Minotola National Bank	18.9%	\$20
(35) Morris County Savings Bank	18. %	No annual fee
(36) National Bankamericard-National Bank	19.8%	\$20
(37) National Community Bank	19.8%	\$20
(38) New Jersey National Bank	19.8%	\$15
(39) Ocean County National Bank	18. %	\$20
(40) Pennsville National Bank	19.8%	\$20
(41) Pilgrim State Bank	19.8%	\$20
(42) Princeton Bank	19.8%	\$15
(43) Savings Bank of Central Jersey	18. %	\$15
(44) Southern Ocean State Bank	18%/15%	\$15
(45) Summit Bank	18. %	\$20

(46) Summit Trust Co.	18. %	\$20
(47) Sussex County State Bank	18. %	\$15
(48) Trust Company of N.J.	19. %	\$15
(49) United Counties Trust Co.	18. %	\$15
(50) United Jersey Bank	18. %	\$15
(51) United Jersey Bank/Cumberland National	18. %	\$15
(52) United Jersey/Franklin Bank	18. %	\$15
(53) United Jersey Bank/Midstate	18. %	\$15
(54) United Jersey Bank/Northwest	18. %	\$15
(55) United Jersey Bank/Southwest	18. %	\$15
(56) Urban National Bank	18. %	\$15
(57) Valley National Bank	16.8%	No annual fee
(58) Woodstown National Bank & Trust	19. %	\$18
STATE-WIDE AVERAGE	18.44%	\$16

* 18% is reportedly charged on cash advances, while 15% is reportedly charged on retail purchases.

STATEMENT BY SENATOR PETER P. GARIBALDI, R-MIDDLESEX

Senator Labor, Industry and Professions Committee Hearing on Credit Card

Interest Rates

IF YOU LOOK AT TODAY'S NEWSPAPER, YOU WILL SEE ADS FOR CAR LOANS FROM AS LOW AS FIVE POINT NINE PERCENT INTEREST TO SEVEN POINT SEVEN PERCENT. MORTGAGES CAN BE OBTAINED WITH EIGHT AND A HALF PERCENT INTEREST RATES. BUT CHECK THE INTEREST RATE ON YOUR LATEST SEARS OR J.C. PENNEYS BILL. IT REMAINS AT A STAGGERING TWENTY-ONE PERCENT INTEREST.

THESE EXAMPLES CLEARLY ILLUSTRATE WHY SENATOR DORSEY AND I ARE APPEARING BEFORE YOU TODAY.

WHEN I TOOK OFFICE TWO YEARS AGO, I MADE A PLEDGE TO MY CONSTITUENTS THAT I WOULD STRIVE TO LOWER CREDIT CARD INTEREST RATES. I HAVE BEEN FIGHTING TO ACCOMPLISH THIS EVER SINCE. UNFORTUNATELY, THE LEGISLATION I INTRODUCED TO PLACE A CEILING ON THESE RATES HAS REMAINED IN LIMBO. MY BILL WOULD TAKE THE AVERAGE PREVAILING INTEREST RATE BEING CHARGED ON ANY LOAN OR EXTENSION OF CREDIT MADE BY STATE AND FEDERALLY CHARTERED BANKS OR LENDING INSTITUTIONS...PLUS TWO POINT FIVE PERCENT.....AND HAVE THAT AS THE CEILING ON

THE INTEREST RATE. I URGE YOU TO RELEASE MY BILL AND THE BILLS MY COLLEAGUES ARE SPONSORING ON THIS ISSUE.

THE CEILING ON INTEREST RATES WE ARE CALLING FOR IS NOT ETCHED IN STONE. WE ARE WILLING TO COMPROMISE ON THE AMOUNT. WE ARE JUST ASKING YOU TO ACT TODAY TO GIVE THE CONSUMERS OF THIS STATE SOME RELIEF FROM THE SKYROCKETING INTEREST RATES THEY CONTINUE TO FACE.

THOSE HARDEST HIT BY HIGH INTEREST RATES ARE THOSE WITH LOW TO MODERATE INCOMES. THESE ARE THE PEOPLE WHO MUST BUY ITEMS, SUCH AS REFRIGERATORS OR WASHING MACHINES, ON TIME. MOST OF THEM ARE NOT AWARE THAT THE HIDDEN INTEREST COSTS ON SUCH PRODUCTS CAN ADD AS MUCH AS ONE HUNDRED DOLLARS TO THEIR BILL. THESE ARE NOT FRIVOLOUS ITEMS EITHER BUT REPLACEMENTS FOR WORN OUT NECESSITIES.

AND, NEW JERSEY CONSUMERS ARE AMONG THE HARDEST HIT BY RISING CREDIT CARD INTEREST RATES. OTHER STATES, SUCH AS ARKANSAS, FLORIDA AND TEXAS, HAVE ACTED TO PROTECT THEIR RESIDENTS FROM THIS EXPLOITATION. NEW JERSEY CONSUMERS PAY NEARLY DOUBLE THE INTEREST FOR GAS IF THEY USE A CREDIT CARD THAN THE RESIDENTS OF THOSE STATES. I WILL NEVER BELIEVE THAT LENDING MONEY TO A NEW JERSEY CONSUMER IS TWICE AS RISKY AS LENDING IT TO SOMEONE FROM ARKANSAS.

THIS IS AN EXTREMELY UNFAIR SITUATION THAT IS PLACING A TREMENDOUS
FINANCIAL STRAIN ON OUR RESIDENTS. IT IS UNNECESSARY AND CAN BE STOPPED IF WE
IN THE LEGISLATURE ACT AND ACT NOW.

STATEMENT OF
NEW JERSEY RETAIL MERCHANTS ASSOCIATION
ON CREDIT BILLS BEFORE THE
SENATE LABOR, INDUSTRY & PROFESSIONS COMMITTEE
APRIL 17, 1986

Chairman Lesniak, members of the committee, my name is Edward J. Goldberg, and I am Vice President, Consumer Affairs and Customer Service of Bamberger's. I am here today as Chairman of the New Jersey Retail Merchants Association. Our association represents more than 1,000 members in the 21 counties of the State.

According to the Bureau of Labor statistics, for 1984, the general merchandise sales in our state were \$12.5 billion and provided \$750,000,000 in sales tax revenues.

Thirty percent of the total general merchandise sales resulted from revolving credit sales, which amounted to \$3.8 billion and accounted for \$226,000,000 in sales tax revenue.

Employment in the retail/wholesale/distribution industry in New Jersey in 1984 numbered 551,758 people, representing 16.5% of total state employment. This industry represents the number two employer in the state.

Credit card finance charge rates, the subject of today's hearing, are of the greatest importance to every sector of the retail industry, whether a small variety store or a large regional or national chain.

Almost all of our members extend credit by issuing their own credit cards and/or by accepting third-party credit cards. Restrictive credit card legislation could have serious negative consequences to millions of our retail customers and your constituents.

I am here to oppose bills which would impose ceilings on finance charge rates. I wish to thank all of you for the opportunity to appear before you and to dispel a number of major misconceptions about retail credit card services and its cost.

I. COST OF RETAIL CREDIT

The first misconception is that retail credit card finance charge rates are grossly out of line with the cost of providing credit services and that finance charge rates should correspond closely to changes in market rates: Let's deal with that one head on.

Proponents of these bills are attacking what they perceive to be interest rates for the use of money and the failure of credit card rates to decline in tandem with falling prime, U.S. Treasury bills or other fluctuating market interest rates. However, interest is just one component of a finance charge. The fact is that finance charges represent a charge for a

package of credit related services, and the cost of funds (i.e., the retailer's cost of financing the accounts receivable investment) is much less important in setting retail credit card finance charge rates than for other types of credit. For retail credit card issuers a substantial portion of the total cost of extending credit to customers is comprised of salaries, operating costs incurred for processing transactions, monthly billing statements, evaluating credit applications, postage, computer expenses, utilities, and collection of delinquent accounts along with substantial costs associated with the write off of a delinquent and uncollectible accounts. For retail credit card issuers, these credit operation costs are not offset through annual membership fees, and, in fact, the imposition of such fees by a retailer is not permitted under New Jersey law.

Even in a deregulated rate environment, many retailers do not make a profit on their credit card operations. State legislation which requires a reduction in the finance charge rate will result in a loss for many more retail credit operations.

II. THE PRIME RATE IS NOT AN ACCURATE REFLECTION OF RETAILERS' COST OF MONEY

The second misconception is that the prime rate is a true reflection of the cost of funds to retail credit card issuers. In fact, the prime rate is not an accurate indicator of the cost of money to retail credit card issuers.

First, retailers do not borrow money at the prime rate, but, in fact, finance their receivables at varying rates above the prime, depending on their particular financial condition.

Second, since retail credit card receivables are financed through a combination of long and short-term debt, a single index rate, such as a current T-bill, prime rate or other market rate, does not accurately reflect either the marginal or average cost of money to retailers. A retailer's overall cost of funds, at any point in time, is partially determined by previously issued liabilities, which are now higher than today's short term rates and do not fluctuate as widely as short term rates. Therefore, to approximate the cost of funds to retailers, one cannot rely on the prime rate as a benchmark, but must look at the long term liabilities in addition to current short term rates.

III. CREDIT CARD RATES HAVE NOT INCREASED DRAMATICALLY

The third misconception is that retail credit card finance charge rates have increased dramatically and are now at outrageous or unconscionable levels.

Before 1972, there was no finance charge rate ceiling on revolving credit in New Jersey. Nevertheless, most retailers charged an 18% annual percentage rate.

In 1972, when the Legislature set finance charge rate ceilings for retail revolving credit at 18%, the prime rate was approximately 5.25%. After 1972, the prime moved up dramatically - reaching its highest point at 20.5% in 1981. Yet in 1982, after the Legislature removed the rate ceiling - and when the prime rate averaged 14.97% - many retailers raised their nominal credit rates from an 18% annual percentage rate to a 19.8% annual percentage rate. Even for those retailers which raised their nominal rate from 18% to 21%, it resulted in only a 17% increase in the finance charge rate; whereas the prime had skyrocketed in 1982 by 293% from its 1972 rate.

Thus, current retail credit card rates do not reflect a dramatic increase from when credit rates were deregulated in 1982. This is evident when you view the dramatic upward movement of other major cost elements of retail credit operations during the past decades, such as postage and salaries, as illustrated in Table A below.

TABLE A

<u>Specific Credit Cost Factor</u>	<u>1972</u>	<u>January 1986</u>	<u>%Increase</u>
1. Minimum Wage	\$1.60	\$ 3.35	+109%
2. Social Security Tax Rate	5.20%	7.15%	+ 47%
3. Social Security Max. Income	\$9,000	\$ 42,000	+366%
4. First Class Postage	8 cents	22 cents	+175%
5. Prime Rate (annual average)	5.25%	9.5%	+ 81%

If the prime rate or a similar index was the principal factor in setting rates, retailers would have had to raise their rates to the 30% level when the prime rate was in excess of 20%. The fact that rates have not risen so dramatically in New Jersey, or in other states where legally permissible, is further evidence of the power of competition in a deregulated marketplace.

IV. RETAIL CREDIT IS DIFFERENT FROM OTHER FORMS OF CREDIT

The fourth misconception is that credit extensions under retail credit cards are like other forms of credit. Retail credit differs from other credit, such as automobile or mortgage loans, in that retail credit involves small balances which are not collateralized. Moreover, the revolving nature of most retail credit necessitates monthly billing statements with all their attendant costs.

There are other striking differences between retail credit cards and other types of credit, like automobile loans. Most importantly, for retail credit cards, the finance charge is imposed in each billing period with flexible repayment terms which remain at the discretion of the account holder. Most, if not all retail credit card plans in New Jersey, provide a "free ride" period which gives account holders the option of avoiding any finance charge by paying the full outstanding balance within 30 days of billing. Depending upon when a purchase is made in the billing cycle, the account holder may have as many as 59 days to pay for the purchase in

full without incurring a finance charge. A significant percentage of consumers - 47% according to a 1983 survey - use their card as a convenience and pay the bill in full each month. As a result, those account holders who choose to pay off the entire balance when billed each month generate no finance charge revenue to offset processing, financing and billing costs.

Even for those customers who elect to extend their payment and incur finance charges, the effective yield is less than the nominal annual percentage rate ("APR") and the actual cost of the finance charge is smaller than is generally thought.

For example, taking a nominal 21% annual percentage rate ("APR"), the true yield for retailers is around 18% as illustrated in the chart (Table B) below. This is so because there is no finance charge in the first and last months. Moreover, as the chart below also demonstrates, since the 21% APR is calculated on a declining balance at the 1.75% monthly periodic rate, the actual finance charge cost to a consumer on a \$100 balance is only \$9.99, and not \$21, assuming the balance is paid off at \$10 a month over a period of twelve months with no intervening purchases.

TABLE B

Month	Monthly Payment	1.75% Monthly Finance Charge On Average Daily Balance*	Customer's Balance After Payment
1	\$00.00	\$0.00	\$100.00
2	10.00	1.66	91.66
3	10.00	1.50	83.16
4	10.00	1.35	74.51
5	10.00	1.21	65.72
6	10.00	1.05	56.77
7	10.00	.90	47.67
8	10.00	.74	38.41
9	10.00	.58	28.99
10	10.00	.50	19.49
11	10.00	.50	9.99
12	9.99	.00	.00

*Assumes payment is received on the 15th day of each month.

Total Finance Charge: \$9.99
Effective Yield: 18%

V. EFFECTS ON CONSUMERS

The fifth misconception is that rate ceiling regulation will be beneficial with no adverse effects on consumers or retailers. This is not true.

Artificially imposed limits on credit card finance charge rates that do not give creditors sufficient leeway to cover all of their credit costs will (a) adversely affect the availability of credit; (b) result in higher cash prices and the subsidization by cash paying customers for credit accounts; and (c) possibly result in the loss of other consumer benefits, such as elimination of the free ride period.

When artificial restraints force prices down, fewer suppliers are willing and/or able to continue offering the same goods or services under the lowered price structure or to take marginal risks. The reduction in availability on the consumer side of the equation is not random across all income strata, but has its greatest impact on marginally creditworthy consumers. Those are the consumers who also typically have lower than average incomes and greater than average need for reasonable amounts of consumer credit.

For many, particularly the young, first time seekers of credit and those struggling on low or fixed income, the retail credit card is their only means to buy essential goods and services or to make discretionary purchases. Traditionally, retail creditors have made credit available to a segment of consumers who cannot qualify for a bank card or other third party card because they are unable to meet higher income or eligibility requirements or may be considered a higher credit risk. To appreciate the adverse effect on consumers of an artificially imposed finance charge rate ceiling one should look at the retail credit experience of Arkansas which has the lowest state-imposed ceiling on retail credit card finance charge rates. Credit studies in Arkansas show limited availability of credit because of the unreasonably low finance charge rates.

We should note that upon opening an account, retailers will initially limit purchases to an overall maximum of a couple hundred dollars and then closely monitor the experience of the customer before increasing that limit. Retailers, of course, recognize that there will always be a small

percentage of credit card holders who may overextend themselves through a combination of financial obligations. Retailers are aware of this risk and have therefore adopted measures to protect against loss, including close monitoring of purchases and payment histories and, in appropriate cases, updating credit information before permitting customers to exceed their limits. A creditor which does not monitor the credit limits and payment experience of its customers risks not only loss of finance charge revenue, but more importantly payment for merchandise.

Where states have required retail credit to be offered at below market rates, the burden of subsidy inevitably falls on cash buyers, many of whom may have been unable to obtain credit. Those consumers who pay cash, whether by choice or as a result of reduced credit availability, will be paying part of the functional cost of credit that should be borne by credit customers. Lowered rates may also compel retailers to make adjustments in the price of goods or services, as well as in the availability of credit. Retailers may thus be forced to reduce other services or increase or add fees to services previously furnished without charge, such as, for example, delivery or wrapping charges.

Research indicates that the retail prices for major appliances in Arkansas are from 3% to 7% higher than retail prices in neighboring states. Similar results were shown in the state of Washington when lower rates were required. In fact, in some Arkansas border towns, consumers actually go out of their way to shop in neighboring states to avoid inflated prices resulting from the state-imposed finance charge rate ceiling.

Another direct effect of artificially low rates in Arkansas is that consumers must now pay finance charges from the date of purchase. There is no 30 day "free ride" period. As a result, retail customers in Arkansas who, if they lived in other states, would have access to free retail credit for as many as 59 days, must pay finance charges from the date of purchase.

VI. COMPETITION

The retail industry in New Jersey and throughout the nation is highly competitive. Discount and off-price merchants compete aggressively with the more traditional mercantile establishments throughout our state. If ever there was a time when retailers could price goods casually or raise prices without fear of a loss of business, that day is past. This year is no exception to the business trend of recent years.

In a free-market economy where competition exists, there is no logical reason or benefit to require any service or product to be offered at a price imposed by the government. This is price control and we all know how such measures have failed miserably in the past.

Credit cards compete with many other forms of credit, and consumers are responsive to the differences among these various options. Consumers may, for example, finance purchases through loans from savings institutions, banks, credit unions or finance companies, which may be able to impose a

lower rate because the lender does not have the same operational and monthly billing costs connected to the extension of credit or repayment of the loan or because the purchase is collateralized. In comparison, a credit card offers many conveniences, such as a one-step application, utilization of the card for phone, mail or in-store purchases, ease of return of merchandise, the means to control and keep track of purchases and returns and the comfort of not having to carry large amounts of cash or engaging in transactions with businesses that will not accept personal checks.

VII. VARIABLE RATES

Finally, the proposed variable rate formula would create tremendous operational and disclosure problems for retailers with a resulting increase in operating costs substantially beyond their current levels. First, there is a serious question as to whether many retailers - large and small - will be able to afford and develop the sophisticated software and programs necessary to operate their computer equipment in a floating rate environment. Second, a variable rate formula will require retailers to incur substantial costs to inform consumers of rate changes, as required by law.

A revolving creditor is unlike a closed-end creditor which extends credit for each distinct transaction at or below the rate that is permissible under the variable rate ceiling in effect at the time. A revolving creditor's retail charge account agreement with its customers applies to

an on-going account balance, consistent with applicable New Jersey law and federal disclosure requirements. When the variable rate ceiling rises or falls, the retailer extending revolving credit is faced with several unacceptable operational choices in respect to the account. For example:

- although both the consumer and the retailer contemplated at the time of sale that payment for the purchase would be subject to the rate which was then in effect, there could be inequitable and unforeseen consequences for the account holder or the retailer if each new rate is to be applied to old as well as new balances;
- if each new rate may be applied solely to new purchases, retailers would have to segregate purchases incurred under different rates, which will be expensive to implement and disclose, as well as confusing to the consumer;
- in order to disclose the applicable monthly periodic rate and corresponding APR on account agreements and monthly billing statements, as required by law, retailers will be forced to continuously re-print these agreements and statements or, in the case of statements, use sophisticated and costly computer software;
- retailers could be obligated under present law to notify consumers of rate changes long before each new rate goes into effect.

* * * *

In summary, we believe that deregulation has benefited consumers, businesses and the economy and that a free marketplace has produced an environment in which there has been increasing product differentiation and competition. This competitive environment offers all creditworthy individuals a means of securing credit and encourages creditors to provide and enhance a wide variety of credit vehicles. Conversely, a restrictive credit ceiling could make retail credit unavailable to many consumers and force them to seek credit from other lending sources or to forego needed purchases. State imposed ceilings will, we believe, stifle competition, and lead to a greater concentration within the credit granting industry. Moreover, this legislation will have no effect on the principal issuers of third party credit cards - national banks, which are able to export their rates from an out-of-state location. Thus, any action to place an artificial ceiling on these rates is inefficient and will adversely affect retailers which are subject to New Jersey law and choose to do business in New Jersey and, as well, the New Jersey consumer and the state's economy.

INTEREST RATE CONTROLS ON CREDIT CARDS

al. Kush MasterCard, Visa and American Bankers Association commissioned Lexecon Inc. to do a study to examine the effects of interest rates on credit cards and proposed legislation in particular.

The study was prepared by Christopher DeMuth, the Managing Director of Lexecon's Washington office. Mr. DeMuth is an economist and lawyer having served under President Reagan as an Administrator for Information and Regulatory Affairs in the Office of Management and Budget and as Executive Director of the President's Task Force on Regulatory Relief. Previously, he was on the faculty of the Kennedy School of Government at Harvard and Director of the Harvard Faculty Project on Regulation.

DeMuth states that economists have found that usury controls are either ineffective or are harmful to consumer welfare--particularly to the welfare of those whom this type of legislation seeks to protect. The conclusions of the study find that the proposed controls are unjustified, and would be harmful to both borrowers and lenders.

The rate of interest on credit card credit, as measured by the Federal Reserve Board's calculations of national average rates, has remained quite constant at about 18 percent since credit cards came into widespread circulation in the early 1970's.

On the other hand the prime rate and yields on 3-month Treasury bills have been quite volatile. The prime rate during the period 1980 and 1981 was higher than that of credit cards.

Consumers Do Not Pay 18% on Bank Credit Card Charges

Interest rates paid by bank credit card borrowers are actually lower than the nominal rates. This is due to the fact that most bank card issuers charge no interest during the initial one-month "Free Period", and many cardholders pay their entire balances during this period. Depending on the date of purchase and the cycle billing date, consumers have anywhere from 30 to 60 days use of funds before finance charges are assessed. About 30 percent of all bank credit card accounts are paid monthly without incurring any interest charge. Cardholders who use their

coros as a transaction intensively (making more or larger purchases), however, so that about 50 percent of the dollar volume of credit card purchases is paid without payment of any finance charge. As a result, the nominal interest rate of 18% translates to an average effective interest rate of about 15%. Putting it another way, the borrower on average actually pays approximately 3% less than the rate that is appearing on his monthly statement. This is our experience as well as that of the industry.

There is very good reason why credit card rates are higher than mortgage, personal and auto loans. The cost of funds is only one component of the expense involved in providing credit card credit. According to the Federal Reserve Reserve Board's most recent "functional cost analysis" of selected commercial banks, only 42 percent of the total costs of providing bank card services consisted of costs of funds in 1984. Operation costs represent the major expense in providing this service. While interest costs have declined, other costs have escalated. Our costs of postage, telephone, credit losses, fraud losses, salaries, stationery and supplies and other expenses per account increased by 5.5% during 1985. It is very clear that "that everything has not come down in the past".

Pattern of Credit Card Growth Across States

The pattern of bank credit card credit across the states in recent years provides further evidence of competition. Interest rates on bank cards are subject to the usury laws of the card issuer's state rather than the cardholder's state. At present 16 states maintain "strict" interest rate controls over credit card credit (ceilings of 18 percent or lower), 17 states plus the District of Columbia maintain "moderate" controls (ceilings of higher than 18 percent), and 16 states have no controls.

If the proposition that interest rate ceilings are beneficial to consumers, it should follow that the states that are regulated should grow relatively faster than those states which are unregulated. On the other hand, if the supply of bank card credit is competitive, and usury ceilings injure consumers by contracting credit availability, then unregulated credit should have grown more rapidly than regulated credit.

The facts are that credit in states with no interest controls are

STRICTLY REGULATED. IN ONLY ONE STATE FROM 1980 THRU 1984, WHILE CREDIT FROM "MODERATE CONTROL" STATES FELL 20 PERCENT AND CREDIT FROM "STRICT CONTROL" STATES FELL 14 PERCENT.

States with No interest rate controls experienced a real growth rate of 83.5% during this period. States with moderate or strict interest controls gained 30.5% and 39.7% respectively.

Arkansas which is constantly mentioned in the press and by proponents of rate control as being a model which every state should emulate. The mandated rate is 5 percentage points over the Federal Reserve discount rate. Low rates are intended to drive the no interest rate control lenders out of the state and make credit abundantly available to the state's consumers. This of course is a myth. The facts are that Arkansas has declined 4.8 percent within its borders and has further declined by 41.2 percent in its share of national revolving credit. The credit loss rate for Arkansas was .43% in 1984 far below industry averages suggesting that credit is not being provided to the low and moderate income families.

These figures are significant and if duplicated in our state, have a grove impact on our economy. If we were to clone Arkansas, the buying power of our consumers would be greatly reduced, demand for goods and services would be affected and we would eventually experience an increase in the states unemployment rate.

The market evidence is unambiguous: as money market rates have fallen, unregulated card credit has become more successful with consumers than credit subject to interest rate ceilings. This is not to say that consumers prefer paying higher rates but it does suggest that other things must not be equal in the present case. The success of unregulated cards is due to the fact that credit is more readily available and aggressively marketed by out-of-state banks. Consumers in New Jersey have overwhelmingly accepted offers from out of state at rates in excess of those now being offered by our own banks.

Among the offers are large lines of pre-approved credit, travel insurance, discount buying services, rental car discounts, card

services which appeal to the consumer. They also solicit new cardholders among riskier demographic groups such as students, individuals of modest means, individuals with no credit history, etc. Banks from states with strict controls are highly restrictive, issuing cards only to the more affluent families.

The Effects of Interest Ceilings on New Jersey Consumers

We have experienced the effects of interest ceilings in New Jersey which caused widespread losses among the State's bank card issuing banks. Although there was an increase in demand for credit cards, there was a decrease in their supply. Credit card applications were removed from merchant and banking office locations. Credit standards were revised to reduce loan losses which resulted in the declining of credit to many lower income individuals. This included raising the income requirement for credit card eligibility. Credit cards were issued only to bank customers. Low and moderate income Consumers who formerly qualified for bank credit were now forced to turn to the small loan companies where they paid interest far in excess of bank interest charges. The "Free Interest Period" was eliminated. Merchant discount rates were increased. No question that this increase was passed on to the consumer in a higher cost of goods.

This brings up another important point. While the states banks may no longer be in a position to offer credit cards due to insufficient profit margins, the effect on the retailer will be much less profound. He will be able to stay in business simply by burying his credit costs in the price the consumer pays for merchandise. The cash buyer will now be subsidizing retail store credit.

Bank Card Penetration

There are approximately a dozen banks in New Jersey who issue MasterCard and Visa credit cards. Credit cards, unlike conventional personal or auto loans, require numerous specialized functions to support them. The fraud and counterfeit risk factor, the volatile nature of this service and the uncertainty of profitability is enough to deter the majority of banks from participation in this highly regulated and complex consumer service.

56.3% which have bank credit cards. Surveys that we had commissioned by an independent firm indicate that Seventy percent or 950,000 households hold the credit cards of out of state banks which are not subject to New Jersey law. The remaining 30% or approximately 400,000 households have their credit card accounts with the banks in New Jersey.

During the period the State's banks contracted their credit card operations and literally went out of the business, the out-of-state banks spent millions of dollars in direct mail campaigns soliciting New Jersey consumers. The strategy paid off and while the New Jersey banks were helpless to compete, the out-of-state banks moved aggressively to capture a 70% share of the States market. Our current surveys indicate that the two largest card issuers in this state are out- of -state banks whom we estimate have more cardholder accounts in New Jersey than all of the New Jersey banks combined. Other banks from New York, South Dakota, Delaware, California and Pennsylvania have large numbers of New Jersey consumers as their customers.

Credit Cards and Personal Loans (Apples and Oranges)

Although some legislators constantly compare credit cards with personal loans, they are as different as apples and oranges. There is no doubt that a personal loan is in fact a loan of money to be repaid over a period of time. The credit card however is a multiple service device which consumers perceive to be of great value. It is a service that they will not do without. As far as loan rates go, there are many alternatives to the credit card. Relative to services and conveniences offered however, the bank credit card has no peer.

Why should the credit card cost more than a personal loan?

The vast amount of labor, computers, terminals, dedicated telephone lines, telecommunications networks, authorization centers, security and fraud control and other administrative services that are involved in providing a worldwide bank credit card service are often overlooked. The major portion of our costs are in this area. By contrast, the personal loan is a very simple one time transaction. Our average personal loan is \$3500. and is normally repaid in 30 months. Our biggest expense for providing this loan is the cost of money.

During the ...
cardholder will have used his credit card 90 times for purchases averaging \$65.00 each. We maintain sophisticated authorization systems 24 hours a day, seven days a week. This enables our cardholders to make purchases at over 4,000,000 locations worldwide and at over 180 financial institutions where they may obtain cash advances. Terminals are provided for high volume retail locations in order that the consumer may not be inconvenienced by long waits in line.

Our cardholders are provided with a completely itemized monthly statement of all credit card activity. If for some good reason, he is dissatisfied with the merchandise, he can notify us and we will obtain a credit for him. If the bank is unable to obtain the credit to which the consumer is entitled the bank will absorb the loss. This particular service requires a full time staff to handle adjustments between customers and merchants.

If your credit card is stolen, it can be used to make purchases amounting to tens of thousands of dollars. Banks absorb these losses which run in the millions of dollars. This is just one more of the expenses that has not come down.

The credit card provides the consumer with a multitude of services, none of which are provided by a personal loan. As examples a bank credit card holder can:

Obtain cash thru automatic teller machines any time he chooses.

Obtain cash advances in amounts as low as \$50.00 from over 180,000 financial institutions worldwide.

Make purchases at over 4,000,000 retail establishments worldwide.

Use his bank credit card as identification for cashing of personal checks.

Eliminate the need to carry large sums of cash which is vulnerable to theft or loss.

Obtain travel insurance, card registration, rental car

merchandise discounts, travel discounts, emergency replacement of lost airline tickets, emergency cash and and much more provided free of extra charge.

Current Market Rate Bill

The present law under which we issue credit cards does not encourage the lowering of interest rates even if the card issuing bank finds itself in a position to do so. Banks can lower the interest rates but cannot increase rates without the consumers consent. If the consumer expects to benefit from lower interest rates, it is only fair that he would expect to pay more when interest rates went up.

The Market Rate Bill which was passed in the last legislative session is unworkable as far as credit cards are concerned. It mandates change in rates in not less than 30 days and not more than 60 days. Unfortunately, the business calendar does not provide for periods between billings in equal 30 day periods due to holidays, Saturdays and Sundays. Depending on the month, and the holidays within it, billing periods may vary between 27 to 33 days in length. Also, the act requires a notice in advance of every rate change despite the fact that the consumer has been notified in advance that his rate would be tied to a rate regularly disclosed in the newspaper. We have large numbers of consumers who have inactive accounts to whom we would be required to mail monthly notices. The expense of postage alone would add another .25% to .5% to our already high cost.

CONCLUSION

Many of the interest rate controls being proposed have no correlation with what it costs to run a bank credit card department. If these ceilings are imposed, most if not all bank card operations in the state will become unprofitable. Seventy percent of the states current credit card holders would not be affected since their cards are issued by out-of-state banks. It is likely however, that credit to low and moderate income families will become scarce and they once again will be forced to resort to the finance companies where they will pay much higher rates.

With less credit available within the state, we can expect a lessening in demand for goods and services which will eventually impact employment.

We ask that you very carefully study the impact the proposed legislation will have on the consumers and the few banks in New Jersey who offer credit cards. We ask that you recall the negative effect of prior laws regulating interest rates. It is our belief and experience has shown that interest rate caps are ineffective and do not benefit those for whom the law is intended.

The First Jersey National Bank
30 Montgomery Street
Jersey City, N.J. 07302
(201) 547-7421

Alexander Kish, Jr.
Vice President

FIRST JERSEY

**STATEMENT OF
JAMES L. BILLMEYER
FOR
HORIZON BANK
AND
HORIZON BANCORP
BEFORE
THE LABOR, INDUSTRY
AND PROFESSIONS COMMITTEE
OF THE
NEW JERSEY SENATE**

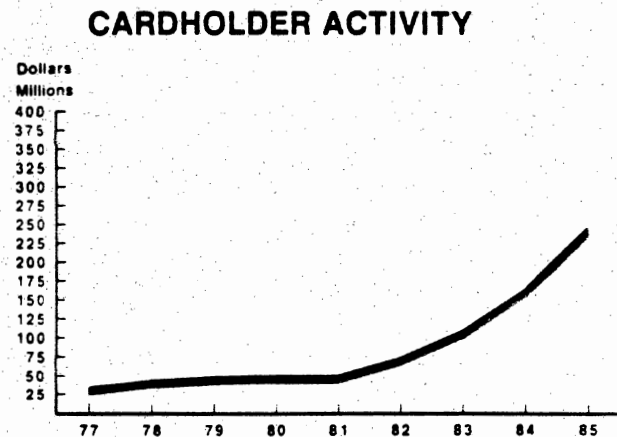
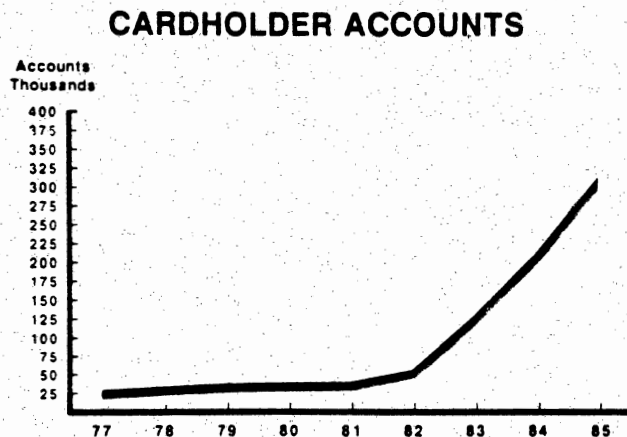
APRIL 17, 1986

Horizon Bancorp is strongly opposed to any proposal that would establish interest rate ceilings on loans and extensions of credit.

Adoption of any such proposal will ultimately reduce the availability of both credit and a payment device in the marketplace, and will facilitate a concentration of credit card issuance among a small group of financial institutions outside the state of New Jersey. From a long-term perspective, competition will constrict, thereby limiting consumer choice.

In 1981, New Jersey's public servants afforded their constituents an opportunity to secure and utilize a powerful financial tool—a "convenience card". Passage of the state law deregulating consumer loan interest rates gave this state's financial institutions the ability to bring credit cards to the marketplace, and New Jersey consumers have overwhelmingly responded.

My organization's experience serves to illustrate this point. In the four years prior to passage of this legislation, Horizon added just under twenty thousand accounts to its cardholder file; in the four years since, nearly a quarter-million cardholder accounts have been established. Clearly, consumers benefited as a result of expanded availability, as did the state's economy. In fact, purchase and cash advance activity during this later period, a reflection of spending by New Jersey consumers, exceeded one-half billion dollars. Furthermore, this consumer activity took place at a time when credit card interest rates had reached their highest level.



Yes, interest rates charged on credit cards are higher than on most consumer loans. But price is a function of demand, and holds little, if any, bearing upon cost. If such were the case, was a credit card interest rate of 19.8% justifiable during 1981, when the average monthly Prime Rate was 18.9%? Or, to borrow from a "hard goods" industry, should General Motors charge the same price, based upon cost, for a Cadillac as they do for a Chevrolet or Oldsmobile? Consumers are the final judge of value, and I submit that consumers understand, and are willing to pay for, the flexibility that credit cards provide.

The establishment of an interest rate index would be both practical and justifiable if credit cards simply provided a consumer loan service. Under this scenario, price—or the interest rate charged—would be predominately driven by the cost of funds. It is important to understand, however, that the credit feature of the card represents only one of the "bundle" of benefits afforded to consumers. For this reason, the pricing of credit cards to an index is both unrealistic and unwarranted. Let's pursue this point further.

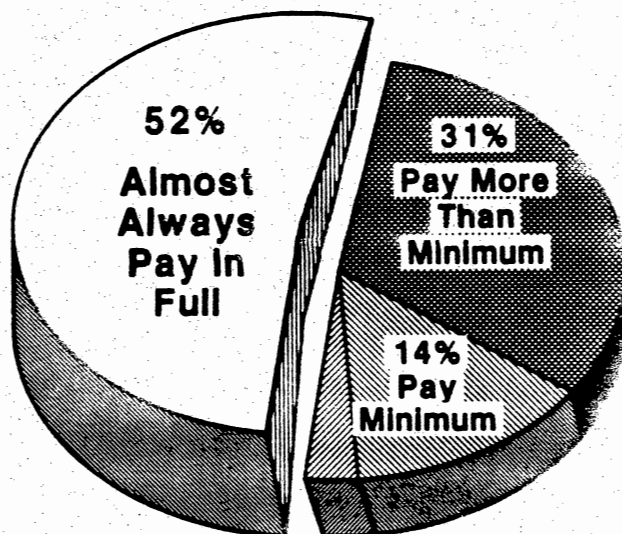
From the user's perspective, the card is more than a loan facilitator; it is a payment mechanism—a means for securing cash and merchandise at millions of locations worldwide. The card avails consumers to a range of services totally unlike those of conventional loan products. It:

- provides consumers a means for "opportunity" purchasing (i.e. taking immediate advantage of sales, investments, etc.);
- serves as identification for check cashing, hotel reservations, car rentals and other important services;
- permits access to funds for emergency-related expenditures such as car repairs, medical treatment, transportation and so on;
- eliminates the need for carrying large sums of cash, thereby providing consumer security;
- affords consumers the ability to provide dependents with emergency purchasing power;
- furnishes a simple and convenient means, through monthly statements, of recordkeeping; and
- provides consumer protection, since federal laws limit losses to cardholders from a lost or stolen credit card to \$50.

These services and protections are provided to credit card consumers whether the card is used as a payment or a credit device. Furthermore, the consumer determines whether, and to what extent, the credit feature of the product is employed.

According to two Federal Reserve Board-sponsored studies in 1977 and 1983, approximately fifty percent of credit card-users almost always pay their bills in full.¹ These consumers, known as "convenience users", utilize funds at no direct cost when the service is provided through a financial institution offering a grace period.

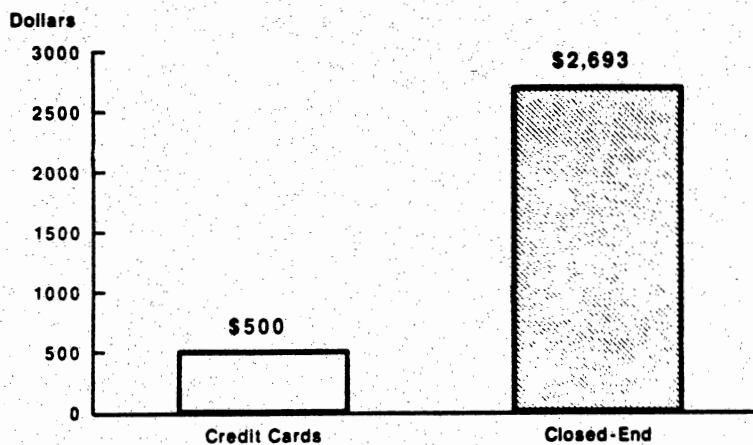
CARDHOLDER PAYMENT HABITS



The effect of these interest-free grace periods on the consumer's real cost, and the issuer's return, is significant. Studies undertaken by the Credit Research Center at Purdue University reveal that the actual yield to creditors from credit card operations is significantly less than the annual percentage rate that is required to be disclosed to consumers under federal law. In fact, sample surveys indicate that effective yields for banks represent only 83% of quoted rates. Consequently if the disclosed rate on a bank card is 18%, the actual yield—or average real price of credit to the bank's customers—is approximately 14.9%.

Other studies have also shown that consumers have recognized a clear difference between credit cards and conventional consumer loans. According to the 1983 study of consumer finances conducted by the Survey Research Center of the University of Michigan, sixty-two percent of the households surveyed owed some type of non-mortgage debt: 37% owed on credit cards and 49% owed on closed-end debt—primarily installment loans. The median credit card debt was \$500, while the median closed-end debt was \$2,693. These findings serve to highlight the fact that consumers differentiate between credit products, and exercise choice based upon need and purpose.

MEDIAN NON-MORTGAGE DEBT



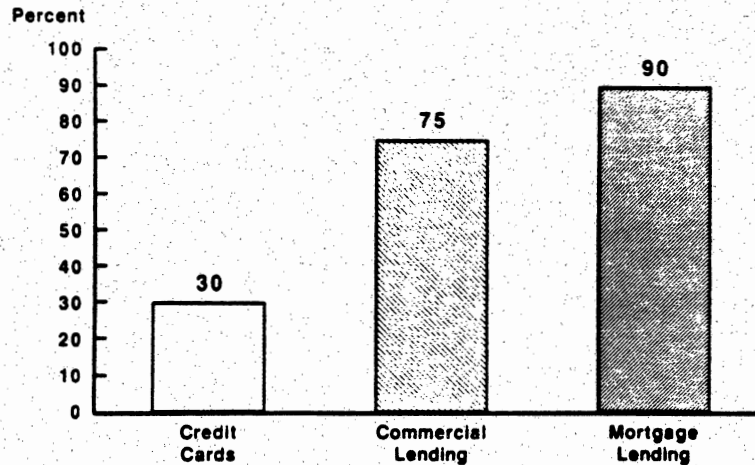
Consumer choice does not end at the installment loan versus credit card decision process. When the consumer exercises his choice to utilize a credit card, he then exercises a choice of providers, based upon individual needs.

More than 15,000 financial institutions in the United States currently provide some type of credit card program. In addition, such services are offered by a broad cross-section of corporate institutions, such as finance companies, travel and entertainment issuers, retail stores, oil companies and others. Competition for consumers is intense, and is not expected to ease in the near term.

In order to attract consumers through needs fulfillment, card issuers are engaging in aggressive product development, enhancement and marketing efforts. Routine and enhanced card services are provided to American consumers at a high cost to the credit card industry.

Over the past 10 years, the cost of funds has represented only about thirty percent of card issuer expense. This amount contrasts sharply with comparable cost-of-funds figures for other types of lending by banks, such as mortgage lending and commercial lending, for which the cost of funds as a percent of total costs equals 90% and 75%, respectively. The additional non-financing costs are unique to the highly competitive credit card market. They are real and continuing obligations that competitors must pay to adequately serve the consumer. They include costs associated with high transaction volume, extensive data communication systems, computer technology and extraordinary consumer protection, provided for a large number of predominately modest-sized lines of credit. Few of these features exist in auto loans, home mortgages or other forms of consumer credit.

COST OF FUNDS AS PERCENT OF TOTAL LENDING COSTS



Beyond the costs to the industry as a whole, individual issuing institutions have found it necessary to enhance product offerings in order to meet consumer expectations. Consumers are no longer satisfied by simply the payment mechanism and line-of-credit features associated with the card; they seek additional services and additional means for card utilization. Examples of enhancements sought include card registration, guaranteed hotel reservations, automated teller machine access, long-distance telephone discounts, price discount information, accident insurance, checkwriting capability and more. Remaining competitive in the eyes of the consumer, therefore, requires non-cost-of-funds expenditures.

How, then, will interest rate caps or limitations affect issuing banks and consumers in the state of New Jersey? It is safe to predict that product enhancements will not be abandoned if interest rates for credit card loans are capped or limited. Consumer demand and expectations as well as competitive pressure will require continued product development efforts. Given this, I submit that issuing institutions will look toward reducing exposure by limiting card issuance to low-risk candidates. As a result, consumers who could obtain credit and a payment mechanism in an unregulated environment will be forced to go without.

Credit cards are often the best means for consumers, particularly younger people, women, minorities and the less affluent, to develop good credit histories. Without such histories, these consumers will find it more difficult to obtain loans to purchase homes, cars, furniture, major appliances and the like. In addition, they may also find it difficult to rent a car, reserve airline and theater tickets or rent a hotel or motel room. To summarize, they will be denied the right to participate equally in our economy.

In conclusion, I submit that the credit card market provides a valuable service to a wide-range of consumers. The continuing growth of the industry suggests that the benefits delivered are adequately reflected in the current rate structure. Consumers—those who exercise the ultimate purchase decision—have found value in the product, and voluntarily utilize its features.

Thank you for your consideration.

James L. Billmeyer is Executive Vice President of Horizon Bank, a member of Horizon Bancorp.

Horizon's member banks, which also include Marine National Bank and Princeton Bank, are major issuers of credit cards to New Jersey consumers, and lead the state's financial institutions in terms of credit card outstandings.

At year-end 1985, Horizon serviced over 300,000 cardholder accounts, with outstanding balances of \$223 million.

STATEMENT TO THE
NEW JERSEY SENATE-COMMITTEE FOR
LABOR, INDUSTRY AND PROFESSIONS
BY: ROBERT J. FARNON
SENIOR VICE PRESIDENT
MIDLANTIC NATIONAL BANK/NORTH
REPRESENTING THE NEW JERSEY BANKERS ASSOCIATION
ON PROPOSED LEGISLATION BEFORE THE NEW JERSEY
SENATE CONCERNING INTEREST RATES ON CREDIT CARDS.

APRIL 17, 1986

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE, MY NAME IS ROBERT FARNON, A SENIOR VICE PRESIDENT OF MIDLANTIC NATIONAL BANK/NORTH, IN WEST PATERSON. I AM TESTIFYING TODAY ON BEHALF OF MIDLANTIC BANKS, INC. AND THE NEW JERSEY BANKERS ASSOCIATION.

MIDLANTIC NATIONAL BANK/NORTH IS THE SECOND LARGEST OF SEVEN AFFILIATED BANKING CORPORATIONS OWNED BY MIDLANTIC BANKS, INC., A STATEWIDE BANK HOLDING COMPANY. MIDLANTIC BANKS, INC., THROUGH ITS AFFILIATES, OPERATES OVER 300 BRANCH BANKING OFFICES THROUGHOUT NEW JERSEY, EMPLOYING OVER 5,000 PEOPLE. OUR CREDIT CARD DIVISION SERVICES OVER 140,000 CONSUMERS THROUGH VARIOUS CREDIT CARD PRODUCTS AND EMPLOYS OVER 100 PEOPLE IN PROVIDING THOSE SERVICES. MR. CHAIRMAN, MIDLANTIC ENDORSES THE NEW JERSEY BANKERS ASSOCIATION IN OPPOSING LEGISLATION THAT WOULD IMPEDE THE FREE ENTERPRISE SYSTEM IN NEW JERSEY BY PLACING CEILINGS OR RESTRICTIONS ON INTEREST RATES.

I WOULD LIKE, MR. CHAIRMAN, TO TAKE THIS OPPORTUNITY TO CLARIFY SOME OF THE GENERAL MISCONCEPTIONS REGARDING CREDIT CARD RATES AS COMPARED TO INSTALMENT LOAN RATES AND WHY CREDIT CARD RATES ARE HIGHER.

A CREDIT CARD BY ITS VERY NATURE IS A CONTINUING SERVICE THROUGH A REVOLVING CREDIT FACILITY RATHER THAN A ONE TIME TRANSACTION CREATED THROUGH AN INSTALMENT LOAN. AN INSTALMENT LOAN APPLICATION IS INVESTIGATED, APPROVED, A LOAN CLOSING TAKES PLACE, PROCEEDS ARE DISBURSED AND A COUPON BOOK ISSUED. THE AVERAGE INSTALMENT LOAN TODAY APPROXIMATES \$10,000 IN A SINGLE TRANSACTION.

IN THE ISSUANCE OF A CREDIT CARD, THE BASIC APPLICATION PROCESS IS GENERALLY THE SAME AS DESCRIBED FOR AN INSTALMENT LOAN. HOWEVER, ONCE THE CREDIT CARD IS ISSUED THE SIMILARITY ENDS. A CREDIT CARD IS USABLE VIRTUALLY AROUND THE WORLD IN ANY TIME ZONE, AT ANY TIME OF DAY OR NIGHT THAT RETAIL STORES OR BANKS ARE OPEN. IN ORDER TO SERVICE OUR CUSTOMERS AND TO PROVIDE AROUND-THE-CLOCK CONVENIENCE, 24 HOURS A DAY, SEVEN DAYS A WEEK, ELABORATE SYSTEMS HAVE BEEN DEVELOPED WHICH REQUIRE CONSTANT MONITORING, UPGRADING, AND PEOPLE SUPPORT. I MENTIONED EARLIER THAT THE AVERAGE INSTALMENT LOAN TODAY APPROXIMATES \$10,000 IN A ONE-TIME TRANSACTION. COMPARATIVELY, THE AVERAGE CREDIT CARD TRANSACTION IS APPROXIMATELY \$75.00. IT, THEREFORE, WOULD TAKE 133 INDIVIDUAL CREDIT CARD TRANSACTIONS TO PRODUCE THE SAME DOLLAR VOLUME AS THE ONE INSTALMENT LOAN.

IN ADDITION, THE CREDIT CARD ACCOUNT REQUIRES MONTHLY BILLING STATEMENTS AS COMPARED TO A ONE-TIME ISSUANCE OF A COUPON BOOK FOR AN INSTALMENT LOAN. THE AVERAGE COST TO ISSUE A COUPON BOOK IS \$2.00 OR 50¢ PER YEAR ON AN AVERAGE LOAN OF 4 YEARS. THE AVERAGE COST TO ISSUE A CREDIT CARD STATEMENT IS 56¢ PER MONTH. NEW CREDIT CARDS ARE REISSUED USUALLY ON AN ANNUAL BASIS, ANOTHER EXPENSE THAT IS NOT REQUIRED ON INSTALMENT LOANS.

ANOTHER MAJOR ASPECT OF CREDIT CARDS THAT IS NOT INHERENT IN INSTALMENT LENDING IS THE HIGH INCIDENCE OF FRAUD AND COUNTERFEIT. ALTHOUGH FINAL NUMBERS ARE NOT YET AVAILABLE, IT IS ESTIMATED THAT FRAUDULENTLY-USED, LOST, STOLEN OR ILLEGALLY MANUFACTURED CREDIT CARDS COST THE MASTERCARD VISA MEMBERS OVER \$234,000,000. IN 1985. ALSO, DUE TO THE UNSECURED NATURE OF CREDIT CARDS, CREDIT LOSSES THROUGH BANKRUPTCY AND DEFAULT ARE DRAMATICALLY HIGHER THAN INSTALMENT LOAN LOSSES. ON AVERAGE, CREDIT CARD LOSSES APPROXIMATE 1.5% TO 2% OF AVERAGE LOAN BALANCES AS COMPARED TO LESS THAN 1/2 OF 1% IN A TYPICAL INSTALMENT LOAN PORTFOLIO.

MR. CHAIRMAN, I WOULD LIKE TO MAKE ONE OTHER POINT WHICH I FEEL IS VITAL TO THIS COMMITTEE'S DELIBERATIONS. OF ALL THE MASTERCARD AND VISA ACCOUNTS ISSUED TO RESIDENTS OF NEW JERSEY, ONLY ABOUT 20% OF THOSE ACCOUNTS ARE ISSUED BY NEW JERSEY BANKING INSTITUTIONS. THE OVERWHELMING MAJORITY OF THOSE CARDS ARE ISSUED BY OUT-OF-STATE BANKS, WHO UNDER THE SUPREME COURT'S DECISION KNOWN AS THE "MARQUETTE CASE," WOULD NOT BE AFFECTED BY ANY

LEGISLATIVE RESTRICTIONS IMPOSED AT A STATE LEVEL, AND WOULD PLACE NEW JERSEY BANKING INSTITUTIONS AT A COMPETITIVE DIS-ADVANTAGE.

IN SUMMARY, MR. CHAIRMAN, I DO NOT AGREE THAT THE PRICING OF INSTALMENT LOANS AND CREDIT CARDS CAN BE REASONABLY COMPARED. THE HIGHER COSTS ASSOCIATED WITH THE CREDIT CARD PRODUCT THROUGH SERVICING REQUIREMENTS, OPERATIONAL EXPENSES, DEMAND FOR GREATER TECHNOLOGY AND HIGHER INCIDENCE OF LOSS, MAKE IT UNIQUE AND SEPARATE FROM TRADITIONAL FORMS OF CONSUMER LOANS.

MR. CHAIRMAN, IT IS OUR HOPE AND DESIRE THAT THE NEW JERSEY LEGISLATURE WILL NOT SEE FIT TO IMPOSE ONEROUS RESTRICTIONS ON CREDIT CARD RATES, BUT RATHER WILL ALLOW THE FREE ENTERPRISE SYSTEM AND THE MARKETPLACE TO DETERMINE THE RATES THAT WILL BE CHARGED.

THANK YOU.

ROBERT J. FARNON, SENIOR VICE PRESIDENT
MIDLANTIC NATIONAL BANK/NORTH
WEST PATERSON, NEW JERSEY

The passage of 1981 state law deregulating consumer loan interest rates had a profound effect on our bank's ability to promote credit card services to merchants as well as cardholders. Deregulation allowed us to compete with out-of-state money center banks and significantly increase availability of credit for New Jersey residents at a relatively modest increase in expense to the consumer.

From the introduction of bank cards in the late 60s, the money center banks centered in New York were able to charge interest rates to New Jersey residents higher than allowed under New Jersey law. The additional revenue generated from higher interest rates allowed the major banks to market their cards to out-of-state residents. New York banks were allowed to charge 18 percent on purchases, while New Jersey banks were restricted to 15 percent.

In 1972 when the prime was at approximately 5½ percent, the difference between the 18 percent and 15 percent was not that significant. But when the prime started its upward turn in 1978, most New Jersey banks severely restricted their card program because interest rates were limited by statute.

Frequently, proponents of interest ceiling regulation compare bank credit card rates to prime rate for the years 1980-81 forward. I would like to describe for you what the

Bank Card business was like during those years prior to de-regulation.

Credit Policy . . . United Jersey's credit policy in the late 70s, early 80s required customers to have meaningful deposit relationships with our bank. Minimum income requirements were deliberately set above the average worker's salary and significant job tenure was required. Applicants were expected to have minimal debt except for mortgage and perhaps an auto loan. Customers were allowed to apply for either Visa or MasterCard but would not be approved for both. Credit lines were restricted to \$1,000 in most cases. As a direct result of statutory limitations on rates, both our branches and our merchants were instructed to remove all Visa/MasterCard applications from display racks. Some banks across the board reduced lines of credit to minimal amounts, and others told their customers if they had both cards to choose one as the other would be closed. In our case, thousands of accounts were not renewed at expiration that would routinely be reissued today.

Deregulation in 1981 allowed us to actively promote our cards. Although the prime had reached record highs . . . over 20 percent . . . we decided that we would increase our credit card rate modestly. Our experience indicated

that this type of account represented a long-term relationship with the customer. Unlike business, the consumer could not afford, nor would they support, a rate of 21 percent plus. We believed then, as we do today, that our customer is not demanding constantly floating credit card rates. Experience indicates the applause of rates going down is far outweighed by the fury of rates going up . . . especially when the consumer has a significant debt with intentions of paying it back over three or four years. That is why we decided not to tie our Bank Card rates to any variable index . . . nor raise our rates to 23 percent plus. Instead, we chose a long-term rate and raised our card rates from 15 to 18 percent . . . knowing that we would not make a profit . . . at that time . . . at an 18 percent rate.

The impact of deregulation on our business has been significant. For example, the number of United Jersey bank card credit applications increased from less than 17,000 in 1981 to over 72,000 in 1985. Total credit lines increased from \$69 million to \$360 million during the same period. The number of active cardholders increased by 114 percent. Sales volume from our New Jersey merchants increased from \$100 million in 1981 to over \$400 million in 1985. We increased staff by 89 percent and raised salaries and benefits

by approximately 35 percent. While the majority of card business remains with out-of-state banks, most New Jersey banks have had similar gains and our state's economy has substantially benefitted from it. (See Chart 1.)

As a result of deregulation and our increasing the annual percentage rate by 3 percent, an average United Jersey Bank Visa customer who carries a balance of approximately \$750 pays only \$22.50 more a year in interest.

Today, our Visa customer uses the card much more frequently but has not become significantly more indebted. In the year 1980, our typical Visa customer used the card for \$850 worth of purchases and advances, maintaining an average loan balance of \$375. Our 1985 typical customer increased average loan balance to \$750 but made purchases and advances of \$2,300.

A unique feature of most bank credit cards is the free period which is not found in other forms of lending. The free period reduces our 18 percent rate to a yield of slightly less than 15 percent. Thus, an average use of \$2,300 worth of credit a year earns us only \$112.50 in interest.

If you relate the average amount of credit used in 1985, \$2,300, to the amount of interest paid, \$112.50, and compare it to 1980 statistics of \$850 in credit used and \$45 interest

paid, the average United Jersey Visa customer is paying slightly less interest as a percentage of volume now than just before deregulation! (See Chart 2.)

The typical customer is not that sensitive to rates and is not a credit card junky . . . They feel a lot safer carrying a credit card than large sums of cash. Our customer knows that if he pays cash for a service or merchandise and there's a dispute, it may be difficult getting cash refunded . . . especially if the transaction was not made locally and the customer does not know the merchant. During the course of a year, 1 out of every 20 of our customers requires our involvement in resolving a dispute with a merchant over goods or services purchased with the card. These disputes cover such things as faulty auto repairs . . . credit not received for unused travel plans . . . malfunctioning appliances . . . improper home improvements or repairs . . . and goods or services ordered and not received. Our mediation, which represents important personnel costs, helps to resolve over 95 percent of these disputes to the consumer's satisfaction. That's another unique feature and service not found in other forms of bank credit!

Despite being told to "cut up" or "stop using" his cards . . . the typical consumer, not the small minority at either end of the spectrum, continues to voluntarily use the card more frequently and wisely today than ever before.

Passage of proposed legislation that would tie credit card rates to Treasury Bills, base rate, or long term government bond yields would place today's bank card rates at approximately the same rate as permitted in the early to mid 70s . . . or below. Proposed ceilings would probably result in the New Jersey banks restricting the amount of free credit provided the customer. Historically, banks accomplish this by reducing credit lines to a minimum and tightening credit policies.

Interest ceilings may affect only a few New Jersey banks. New Jersey residents may again be forced to apply to out-of-state banks . . . even though both the rate and the annual fee may be higher. People prefer a card with a high credit line even with a high rate over a low rate but a restrictive line . . . primarily because they do not perceive the credit card as a loan.

Today, untied rates allow us to actively compete for New Jersey customers with large credit card operations in South Dakota and Delaware where there are no limitations of any sort. We are also free to provide our customer with a package of services that enhance their account. Free travel-accident insurance in amounts as much as \$500,000; discounts on auto rentals; refunds of 3 percent on air travel and 10 percent on hotel bills; credit card registration; free checks; and many other services are included with the

card. We are also able to package services so they might appeal to groups of customers. For example, **United Jersey offers a Senior Club service with a credit card rate of 14.44 percent.**

While credit card rates may be perceived to be high, unlike past history, there is absolutely no indication that there is one rate charged by all state financial institutions. Credit card rates, the amount of credit availability, and services provided with the card vary significantly.

The credit card industry, like other deregulated industries such as telephone and airline, have experienced significant increase in competition. Today, New Jersey banks compete not only with banks from neighboring states but a variety of financial institutions from across the country, including retail giants like Sears, for the consumer's credit card business. As in other industries, there is a need for the consumer to educate himself so that he can choose the service that appeals to him.

Our New Jersey banks have used the competitive authority given them in 1981 wisely. Our state and its consumers have significantly benefitted. They continue to want to enjoy the benefits. We want to continue to compete with out-of-state bank card issuers but we won't be able to do so if credit caps are placed only on New Jersey banks.

Thanks so much for your consideration.

Chart 1

	<u>1980</u>	<u>1985</u>
# Applications	17,000	72,000
Total Credit Lines	\$69,000,000	\$360,000,000
Average Purchases/Advances Per Visa Account	\$850	\$2,300
Average Balance Per Visa Account	\$375	\$750
Charge Offs As % of Year End Outstanding	2.03%	2.22%
Delinquency As % of Year End Outstanding	2.60%	1.97%
Merchant Sales Volume	\$100,000,000	\$400,000,000
A.P.R. On Purchase Balances		
Standard	15%	18%
Gold Card	N/A	17%
Senior Club	N/A	14.44%

Chart 2

	<u>Average Balance</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Average Interest Paid</u>
1980	\$375	15%	12%	\$45
1985	\$750	18%	15%	\$112.50

	<u>Average Interest Paid</u>	<u>Purchase & Advance Volume</u>	<u>Rate as % of Volume</u>
1980	\$45	\$850	5.29%
1985	\$112.50	\$2,300	4.91%

STATEMENT OF
PETER J. GRAZIANO

*New Jersey
National
Corp*

BEFORE THE
SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE.

MR. CHAIRMAN AND COMMITTEE MEMBERS:

Thank you for allowing time for these comments.

My background with plastic convenience cards covers two decades
with exposure in COLLECTIONS; LOSS PREVENTION; OPERATIONS;
PRODUCT DESIGN; AND MARKETING STRATEGY.

I presently have the responsibility for the daily operation of
the NEW JERSEY NATIONAL BANK convenience card program.

Our Bank has provided convenience card services to New Jersey consumers since 1970. Since 1981 when legislative changes were enacted; New Jersey National has been a very active participant in the convenience card business. We have added 150,000 individual cardholders to our consumer base and 17 Full Time Positions in the New Jersey job market.

Consumers have benefited from this expansion in both the employment and services areas. More specifically this general expansion in the industry has made this service readily available to most economic groups and provided the consumer with plastic convenience cards with a wide range of services and pricing.

It is very important in discussing plastic convenience cards to distinguish this service from traditional Installment Lending. Convenience cards provide flexibility and utility not available with any other type of lending. Consumers use convenience cards to establish their identity and credit worthiness in many transactions in the market place which do not result in credit card transactions. Most consumers who do choose to make purchases using the convenience cards can avoid finance charges or voluntarily choose to use the extended payment plans available. 50% of the consumers who have cards do not, in any given period, pay finance charges; however 80% do use the convenience and utility of the card.

Providing this flexibility and utility, in itself dictates much higher expense than traditional Installment Lending. For example, cost of Funds in traditional Installment Lending can be as much as 80% of the total cost of Business. In the convenience Card industry, it is on average less than 50% of the cost of doing business. This is due to facts such as these:

- . The average convenience card user makes 3.4 loans per month with the average loan being \$64.00; Each of these transactions requires some form of verification as to the cardholders standing. The VISA system alone responds to more than a million authorizations messages and 5 million clearing and settlement items daily.

- . 80% of cardholders require a monthly statement. Production and postage is a significant cost.

- . Fraud and counterfeiting in the first six months of 1985 in the MasterCard system alone amounted to \$45,000,000.

These three examples, and there are more, demonstrate how unique the convenience card operation is from traditional Installment Lending.

Expenses such as these simply do not exist in other types of Installment Lending.

It is also important in discussing legislation in the state of New Jersey to realize that 70 to 80% of New Jersey cardholders maintain their accounts with Banks outside the state of New Jersey.

Consequently legislation of this type would affect a relatively small number of New Jersey cardholders but all of the New Jersey institutions competing to expand in our own market.

I believe it would be a misnomer to assume that New Jersey cardholders would flock to New Jersey institutions due to regulated low rates. The record in the retail market place clearly shows that those able to improve, enhance and aggressively market their product or service capture more of the market. It is more realistic to see New Jersey institutions unable to compete in a highly competitive industry, causing a constriction of this service by New Jersey Banks and a reduction in employment in this field.

In summary, it appears we should apply three test to the legislation proposed.

- . Will it affect the majority of New Jersey consumers holding credit cards?

- . Will it provide the basis for New Jersey institutions to compete in a highly competitive market?

- . Will it foster expansion in the industry and employment opportunities for New Jersey residents?

I THINK NOT !

Thank You

Statement of
Citizens First National Bank of New Jersey
Before The
Senate Labor, Industry and Professions
Committee
New Jersey State Senate

April 17, 1986

J.W. Coote
Senior Vice President

The Citizens First National Bank of New Jersey appreciates this opportunity to express its views to the Labor Industry and Professions Committee hearing on credit card interest rate indexes and caps. Citizens First is a Bergen County based bank with assets exceeding \$1,700,000,000. The bank also has branches in Morris, Passiac, Hudson and Ocean counties.

Citizens First has issued the MasterCard credit card since 1969, primarily servicing people within its own community and not undertaking extensive telemarketing or substantive advertising programs outside of its own service area.

We have always believed, and continued to believe that the credit card is a valuable borrowing device with almost unlimited flexibility and convenience. To the affluent who care to limit the cash they wish to carry, to those with lesser income who may not have the cash to carry, but who equally need funds available when they are required, there is no payment or credit system so universally accepted, so fulfilling of the public's need, as the bank credit card.

As complex and sophisticated as the bank card system is since its inception, the plastic and the delivery system has been continuously undergoing costly change in an effort to upgrade the convenience, speed, and security attached to its use.

There is no doubt but that the plastic device represents for the present and the foreseeable future, the most advanced technological method of making instant credit available for millions of cardholders at millions of locations throughout the world. It is the fear of Citizens First National Bank of New Jersey, the New Jersey Bankers Association, the Consumer Bankers Association, related and similar associations throughout the banking, thrift, and retail industries, that any effort to regulate finance charges beyond what they are today, namely to reduce and cap finance charges, will stifle the vigorous competition that exist today for the public's credit card business.

Any unreasonable or unjustified interference with the open market place will only serve to deplete the ranks of credit card issuers. Many small issuers of credit cards would find it necessary to surrender their position in the field, to what would very likely become monopolistic giants. We fail to see how this would remotely help the consumer.

We respectfully and strongly suggest, that the legislators in their honest and commendable zeal to serve the credit card user, explore other less devastating ways to effectively lower the users credit card cost. The most obvious direction is to improve existing laws under which all regulated card issuers operate, so that they may respond to rate changes in a more timely and competitive manner. The results would prove beneficial to the card

user and could easily be monitored by the legislators or State Agencies designated by them.

What is extremely important to consider is the adverse effect that any restrictive measure would have toward banks and thrifts and ultimately the people that they employ.

For reasons that follow, we ask that you champion and advance the competitive position of the New Jersey based and regulated credit card issuers, and in turn, benefit New Jersey.

CITIZENS FIRST NATIONAL BANK OF NEW JERSEY AS A CREDIT CARD ISSUER

Since Citizens First had elected to generate credit card business within its own service area, it found that statistics concerning credit card activity has remained relatively constant. The exception to this is the increase in credit card outstanding balances. In the last five years, credit card outstandings have increased by just under 300%. This increase had occurred without the benefit of telemarketing or direct mail campaigns, and almost entirely within the period since the passage of Senate 3005 in 1981. Senate 3005 gave relief to banks and thrifts from the burden of crippling interest rate ceilings.

In the seventeen years that Citizens First had issued a bank credit card, it has done so on an unsecured basis. At the end of 1985, only 29% was outstanding as credit card debt of the total

credit lines committed to Citizens First cardholders. This ratio is far less than the near 50% ratio of outstanding debt to lines committed, under the highly accepted home equity method of borrowing. The 29% dollar usage of available credit is not indicative to widespread credit card abuse by so called shopaholics. The misuse of the credit card by a few cardholders cannot be allowed to result in a blemish to the bank credit card system which has so greatly improved, for the buyer, the merchant and the general economy of the nation, the manner in which we so conveniently do our retail shopping. Since 1980 the year end ratio of outstanding debt to credit lines has not exceeded 29%.

Of the monthly statements mailed by Citizens First to its cardholders' rarely do more than 60% result in the payment of interest. This percentage has remained constant over many years. The 40% or more of the cardholders who take advantage of the grace period cause the disclosed rate of 18% to be reduced to a gross yield of less than 15%. The law does not dictate the offering of a grace period, competition does. Citizens First has never retreated from offering a grace period, even in the most unprofitable period of our credit card history. This is hardly representative of a ripoff or of price gouging.

THE BANK CREDIT CARD

No method of consumer borrowing has so noticeably affected American industry, since the advent of bank low cost, high dollar

amount, collateralized Auto loans, as the generally unsecured, frequently used, low dollar credit card transaction. The mass acceptance of the bank credit card, its important place in support of the American economy, has come about because of the public recognition that the bank credit card is the most valuable, simple-to-use credit tool made available to the consumer.

The plastic card, the speed of point of sale authorizations, the detail recording of the purchase or cash advance transaction made anywhere in the world, the payment to the merchant, the billing, the collection of payments, the accounting system as a whole, is the complex feature of the credit card. Simplicity and convenience belong to the cardholder.

The development of the smart card and the super smart card will tremendously broaden the flexibility of the bank credit card. On line systems at automated teller machines will give the cardholder access to most if not all of the cardholder's bank accounts, permitting transactions from one account to another 24 hours a day. There is little similarity between a bank credit card and a traditional consumer loan.

INTEREST RATES

Since 1933 until recently, government regulations had limited the rate of interest that banks could pay on deposits. During the

recent phase in of deregulation, interest rates paid on deposits have increased dramatically. The era of savers subsidizing the borrower had come to an end. It should also be recognized that since the development of the credit card, overhead costs have skyrocketed. When you consider that the average credit card transaction over the last six years at Citizens First, amounted to only \$56.45 it is easy to see why this is a labor intensified credit product. When you realize that purchases are made at many locations over a wide area, it is also easy to understand that the cardholder will have many questions and disputes that must be satisfied under a highly regulated environment. This requires a highly skilled management and clerical staff in a labor intensified atmosphere. The staffing required is numerically greater per \$1,000,000 outstanding than any other loan type. Consequently, the cost of funds does not have the same relationship to the total cost of servicing credit cards as it does to other loan products.

Most New Jersey banks have been disclosing an annual percentage rate of 18%, as opposed to out of state bank cards which carried a rate of 19.8 and higher. Our substantially lower rate was not the important factor to 80% of the New Jersey cardholders who chose to carry an out-of-state bank credit card. Where then, is the justification to intervene in the free marketplace, by placing unrealistic ceilings on interest rates that may be charged by New Jersey banks who historically offered considerably lower rates than its out of state competitors.

CONCLUSION

The approach to lower credit card rates in a market such as we are experiencing is not through restrictive legislation but simply through a workable variable rate consumer loan law. If existing law could be amended or new law enacted where its application would be suitable to a credit card format, banks would be in a position to respond to market rate changes in a timely manner. With such a vehicle, banks could decide to offer fixed or variable rate options at a rate structure agreeable between the borrower and the lender.

I realize that this suggestion is contrary to the direction of this committee hearing, but it certainly would serve to meet the Committee's goal. It has been said repeatedly that the credit card market is saturated. If this is so, then the only way we can increase our market share is to draw cardholders away from other lenders through competition. If the lender has the flexibility to quickly respond to rate increases as well as rate decreases, then the opportunity exists to realize a profit. When the ability is there to recover from a low rate position, the motivation will always be present to attempt to out sell the competition. It could be expected that this would generate enough activity for the cardholder's account to assure the availability of competitive rates.

Placing strict ceilings on credit card rates would appear to address only 20% of the bank card market, that portion of the market controlled by New Jersey banks and thrifts. The remaining 80% of the bank card market would apparently go unaffected. This would seem to penalize the card issuing group with the lowest average interest rate, while out of state credit card companies would continue to successfully flood New Jersey with credit card solicitations calling for interest rates considerably higher than those of New Jersey banks. The competitive position of New Jersey credit card issuers should not be jeopardized by proposed legislation that does not surely cover 100% of the participants. It is fair to contend that New Jersey card issuing banks and thrifts cannot, for the most part, match the direct mail solicitations of out of state money center banks. Reaching a goal of lower card rates would most likely be realized by enhancing New Jersey's competitive position.

The predictable result of the passage of restrictive rate ceiling legislation would be a lowering of New Jersey's share of the credit card industry along with all of its economic backlash.

CONSUMERS LEAGUE OF NEW JERSEY

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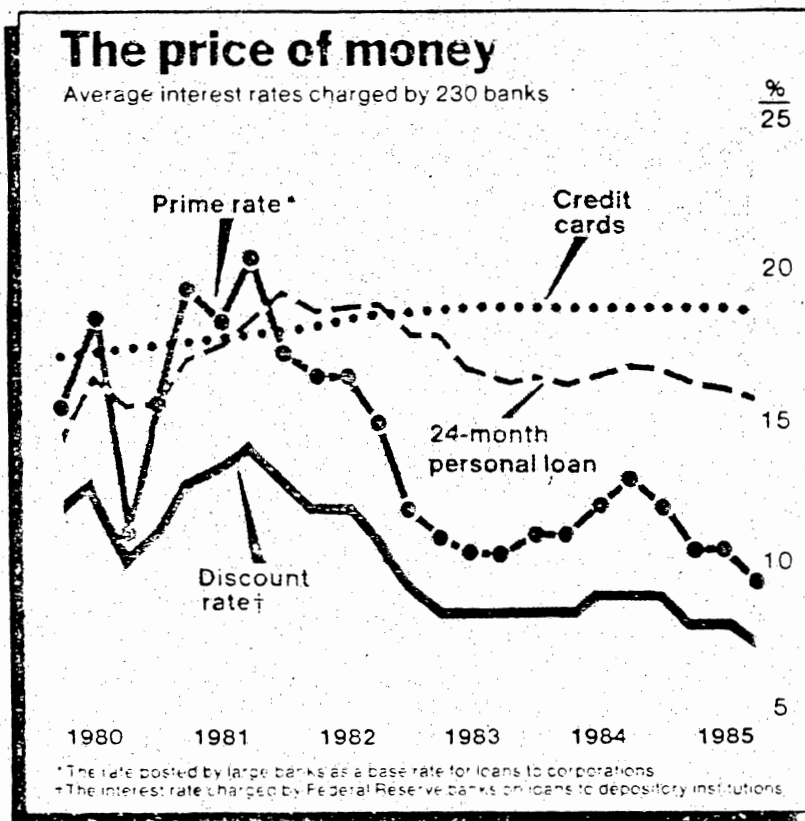
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3

THE CEILING ON CREDIT CARD RATES SHOULD BE LOWERED;
NEW JERSEY'S 30% GENERAL USURY MAXIMUM IS MUCH TOO HIGH;
CLNJ URGES A "FLOATING" USURY CEILING, WHICH WOULD RISE AND FALL
LIKE AN ADJUSTABLE RATE MORTGAGE

What goes up must come down--except if it's credit card interest rates. When national interest rates went up in 1981, the New Jersey Legislature quickly repealed many consumer usury laws and substituted a 30% maximum loan rate. The idea was to let loan rates rise and fall with economic conditions. This social experiment has been a failure. Credit card rates go up, but in general they never come down.

Market Interest Rates Decline, Credit Card Rates Unchanged



Source: New York Times, 10/31/85

There is no "free market" for credit cards in New Jersey because consumers don't have any real choice. The card issuers fix their rates at 18% to 21.6%. We aren't aware of any lower cost credit cards issues in New Jersey. There is no competition among New Jersey banks and retailers over credit card rates.

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Lower credit card rates in other states

Credit card rates don't have to be so high. A handful of banks in other states do offer more reasonable rates. In Arkansas two banks were offering cards at 13% or less in November 1985. Chevy Chase Saving and Loan Association in Maryland is advertising for customers for its 14% credit card. These banks show that it is possible to run card operations at a profit while charging reasonable rates. In fact New Jersey issuers used to charge lower rates just a few years ago, before 1981: 12% for cash advances; 15% for the first \$700 of purchases and 12% on the remainder. Since national interest rates have returned to the stability and low rates which prevailed before 1980, credit card rates should be returned to the reasonable levels which prevailed before 1980 as well.

Lower rates would give New Jersey banks a competitive edge

What would happen if New Jersey banks started issuing credit cards at 13%? One ad in the New York Times would be sufficient to take thousands of customers away from the New York banks. New customers would mean increased revenues from annual fees. In addition, each time a cardholder uses a New Jersey card, the merchant pays a couple of percent to a bank to cash the charge slip. Hence banks make money on purchases, even if the consumer pays the bill within 30 days. The combination of:

- merchant fees to cash the charge slips,
- annual membership fees, and
- finance charges at 18% to 21.6%

not only covers processing costs, but makes the card business quite profitable. If New Jersey banks attracted more customers, they'd make more money.

CLNJ supports the floating usury ceiling in S.1632

If the card issuing club is unwilling to take down its 18% interest barrier, then the Legislature should do it for them. CLNJ supports S.1632 by Senator Contillo. S.1632 would establish a floating usury ceiling for credit cards issued by banks, retailers, and finance companies. The bill sets the maximum interest rate as 6 percentage points above the rate for 3 month United States Treasury bills. This ceiling would change each calendar quarter. Arkansas already has a floating usury ceiling-- 5 points above the Federal Reserve discount rate (hence a 12% ceiling currently). S.1632's formula would allow a higher rate than in Arkansas.

In effect, the floating usury ceiling copies the principle of the adjustable rate mortgage. The usury ceiling would go up and down with the cost of money. What's fair for the banker is fair for the consumer. Now it's up to the Legislature to restore economic fairness in credit cards.

The Legislature should enact a general floating usury ceiling

Credit card rates are not the only examples of sky high interest. New Jersey's 30% usury ceiling has been abused by other types of creditors. As examples we attach copies of:

- second mortgages at 29 .
- car sales at 29.99%, 29.95%, etc.,
- furniture sales at 30%.

I am ashamed to say that New Jersey legally permits these shocking rates.

Surveys by the NJ Department of Banking have also mentioned that since 1981 rates of 29% to 30% have been charged by some of New Jersey's:

- small loan companies,
- insurance premium financiers,
- retail installment sellers (cars, furniture),
- secondary mortgage lenders.

The Banking Department found these rates to be "competitive." CLNJ thinks that these rates are unconscionable.

Thus we propose that the Legislature enact a general floating usury ceiling, not just for credit cards. To do this, the Legislature could delete the present "30%" ceiling in NJS 2C: 21-19(a) and substitute the floating ceiling of S.1632 (6 percentage points above the 3 month Treasury bill rate, rate changing quarterly). CLNJ also favors an absolute cap of 25% on consumer credit rates, which would match the 25% cap of New York. Attached is an amendment to NJS 2C:21-19(a) which would set a reasonable floating usury ceiling.

We ask that the Legislature put an end to the legalized loansharking now permitted with 30% interest.

NEIL J. FOGARTY
President

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PROPOSAL TO AMEND NJS 2C:21-19(a);

EXHIBITS TO TESTIMONY ON CREDIT CARD INTEREST
AND GENERAL USURY LIMIT

ALFONSE M. D'AMATO
NEW YORK

United States Senate

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Dear Fellow New Yorker:

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105 State Street
Rochester, New York 14614
(716) 263-5865

Syracuse

1255 Fed. Bldg.
100 South Clinton Street
Syracuse, New York 13202
(315) 423-5471

If you use credit cards -- as most of us do -- you probably are paying exorbitant -- and totally unfair -- interest charges on your account. You probably are also paying an annual fee just for the right to carry the card.

Credit cards are the lifeblood of the American economy and a necessity for middle-income families struggling to make ends meet. American consumers will charge over \$300 billion on their credit cards this year alone.

Credit card issuers, however, are taking advantage of this consumer dependence on credit cards. The average interest rate charged on credit card purchases now is an incredible 18.6%. Some companies charge as high as 21.6%! American consumers deserve a lower -- and fairer -- interest rate.

Credit card issuers now borrow the money they need at less than 8% interest and most loans today carry an interest rate of between 8% and 13%. By reaping 18.6% on credit card charges, credit card companies are making an incredible 132% profit.

In the last four years, just about every interest rate charged in the United States has fallen. The major exception to this, however, is the interest rate charged on most credit card purchases: the average for such charges has increased from 17.1% to 18.6% during the same time period.

Not all credit card companies are being so callous to their cardholders. While some charge over 20% interest, others charge only 12.5%. I now carry a nationwide credit card with this low interest rate. It is accepted by merchants worldwide just as readily as is the card you now carry. The only difference is that I obtained my card from an out-of-state bank that is playing fair with its customers and is charging a more reasonable interest rate.

You don't have to be a customer of an out-of-state bank to carry one of their low interest, nationally accepted credit cards. In fact, as a result of Senate hearings on this subject, I now have a list of several banks where you can obtain a low interest rate card just by filling out an application. I can't include this list in this newsletter, but if you would like to receive a copy, just let me know. I'll be glad to send it to you.

The high interest rates charged on most credit cards are an inequity -- an inequity which must be addressed, and which must be addressed now. Credit card users must no longer be abused.

I have introduced the Credit Cardholder Protection Act, S. 1922. My legislation places a cap -- or ceiling -- on the legal interest rate a credit card issuer can charge. This ceiling is four percent over the interest rate the Internal Revenue Service charges on late tax payments and pays on tardy refunds. The IRS rate is a compilation of prime interest rates from the previous six months and is recomputed twice yearly. The current IRS rate is 10%, making the legal cap on credit cards under my bill just 14%. This cap will save consumers over a billion dollars this year.

The second part of my bill requires full disclosure of interest rates and fees charged by credit card companies. The consumer has a right to know what he or she will be charged. Let's end the conspiracy of silence.

My bill also requires all credit card issuers to report their interest rates and annual fees to the Federal Reserve Board which will publish this information each month. This will let the public know which companies put profit above service and which companies are taking advantage of the American consumer.

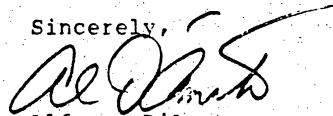
If this reporting was required now, you wouldn't have to write to me for a list of low interest rate credit card issuers. This information would be disclosed and widely known. True comparison shopping would be easy for consumers. Finally, my bill requires a Federal commission to examine credit card-issuing practices and to report back to Congress with recommendations on how to more effectively protect the American public.

The next time you use your credit card, think about this: if your average balance throughout the year is a mere \$500, you could be paying more than \$100 in interest -- that's more than \$1 out of every \$5 going for interest, not for what you purchased.

As I noted above, I personally have taken steps to make certain that I am not charged an unfair interest rate on credit card purchases. I was lucky, a friend told me about the out-of-state bank that charges only 12.5%. I carry this bank's card now, and I believe that everyone should have the same opportunity. Passage of my bill will remove the veil of secrecy hanging over the credit card industry by requiring the Federal Reserve Board to publish every credit card company's interest rate on a monthly basis.

There is a fair and reasonable interest rate that credit card issuers should charge, but it is not 21.6%, and 18.6% is not much better. Let's get credit card interest rates back where they belong. Let's require credit card interest rates to better reflect the rest of the economy. Let's pass the Credit Cardholder Protection Act.

Sincerely,



Alfonse D'Amato
United States Senator

P.S. In doing my job here in Washington, it is helpful for me to know your views on important issues of the day. I would appreciate it if you would answer the following questions and return this survey to me in a stamped envelope to my Washington, D.C. office: 520 Hart Senate Office Building, Washington, D.C. 20510. Thank you.

1. At present, credit card application forms are not required to contain complete information regarding the terms and conditions of repayment, annual fees, or the interest rates charged on credit card purchases. Some companies disclose this information, others do not. Frequently, complete information is supplied only when you receive your card. If the disclosure of such information was required on all application forms, do you believe that you personally would be better able to select the credit cards that were best for you?

YES _____ NO _____

2. Do you believe that Federal Reserve Board disclosure, on a monthly basis, of all credit card issuer's fees, interest rates, and terms of repayment would allow American consumers to comparison shop for the credit cards that were right for them?

YES _____ NO _____

If you want a list of low-interest-rate credit card issuers, check here. _____

United States Senate

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HOLDERS OF AMERICA

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A non-profit consumers association dedicated to protecting the interests of bank card holders.

**TESTIMONY OF ELGIE HOLSTEIN
ASSOCIATE DIRECTOR
BANKCARD HOLDERS OF AMERICA
BEFORE THE
LABOR, INDUSTRY AND PROFESSIONS COMMITTEE
OF THE
NEW JERSEY SENATE
APRIL 17, 1966**

I am pleased to present testimony to the Committee today on behalf of the 130,000 individual members of Bankcard Holders of America (BHA). BHA is a national, non-profit consumer organization dedicated to informing its members and the public about the rights and responsibilities of credit card users. BHA is the only national consumer group working exclusively on credit card issues and has participated actively in providing information to state legislative and Congressional committees reviewing credit card issues.

We are submitting our comments to you today because we believe that consumers are paying far too much interest on their credit card balances, and because we believe that the terms under which they are billed for their card purchases remain a mystery to the citizens of New Jersey. We have reached the unfortunate conclusion that legislation is necessary here in New Jersey and in other states because the banks are unwilling to adjust credit card interest rates to reflect the real cost of money in the economy.

We are pleased that the New Jersey Legislature is considering action to deal with these problems. We believe that as a leading financial market, New Jersey should seize the opportunity to lead the nation in the fight against the high credit card interest rates currently gouging the nation's 91 million credit card holders.

The legislation before you today, S.1632, represents a fair compromise between the interests of consumers and those of the New Jersey banks that issue credit cards. Rather than imposing a flat ceiling on credit card interest rates, which could prevent the banks from recovering their costs when interest rates throughout the economy rise, the bill would tie credit card rates to a variable ceiling pegged to the interest rate of six-month Treasury bills. That way, when the banks' costs of money go up, credit card interest rates could be raised. But when interest rates in the economy go down -- as they have been for the last five years -- consumers would pay lower interest charges.

The bankers argue that any measure to restrict credit card charges would be an assault on the competitive, free market in credit cards. By definition, however, competition requires information, but, often,

when interest rates in the economy go down -- as they have been for the last five years -- consumers would pay lower interest charges.

The bankers argue that any measure to restrict credit card charges would be an assault on the competitive, free market in credit cards. By definition, however, competition requires information, but, often, consumers cannot learn the interest rate charged for a credit card until after the card has been issued.

Even after receiving a card, many consumers remain confused about the charges they will be incurring. The banking industry reassures us that all terms and conditions of their cards are clearly disclosed in the "Explanation of Finance Charges" that accompanies consumers' monthly statements. Such assurances are laughable, however, to anyone who has ever tried to verify their bill by attempting the mathematical gymnastics outlined in tiny print on the back. By comparison, IRS forms read like Dick and Jane primers.

The uninformative advertising directed at prospective cardholders, and the complicated formulas used to concoct monthly credit card charges on existing cards, virtually guarantee that consumers will not be able to make informed choices among cards.

This ongoing consumer confusion makes it possible for the banks to camouflage the high cost of credit cards. They continue to restrict their "competition" to travel and entertainment frills instead of offering fair interest rates. Thus, credit card advertisements and direct-mail solicitations emphasize "enhancements" such as health club memberships, travel services, and book-of-the-month clubs. In fact, many card advertisements make no reference at all to rates and fees. Consumers do want low-interest credit cards, but most simply cannot find them since only a handful of banks offers them.

Moreover, credit card interest rates remain at astronomical levels, in spite of the continued drop of every other interest rate in the economy. Everyday, the newspapers, radio, and television report the latest good news stemming from lower interest rates. Auto loans are down, home loans are spurring a real estate boom, the stock market is soaring. The rates for every other type of consumer loan rate have fallen dramatically. The discount rate -- a major indicator of the banks' own costs of money -- fell again last month to seven percent, exactly fifty percent below its 1981 level. Yet in that same period of time, credit card interest rates have actually gone up: from 17.8% in 1981 to a current national average of 18.8%.

Here in New Jersey, which has the highest usury rate limit of any state in the nation, banks are charging close to the national average.

Nationally, many of the big money-center banks are charging even more, despite enjoying high economies of scale in their large credit card operations. The twenty-five largest issuers of credit cards are charging an average interest rate of 19.4%

Undoubtedly, one major concern of this committee in reviewing the

money, were squeezing their profits. Many banks, after winning the repeal or increase of the usury limits, moved anyway, seeking more favorable tax treatment and labor costs.

According to this brand of economic blackmail, New Jersey banks should be free from any state regulation that might prevent them from charging as much as their out-of-state colleagues. By their definition of competition, making as much money as the banks in Delaware is more important than protecting their customers from unnecessarily high fees.

The fact is that if this legislation is approved, competition could actually be enhanced if New Jersey banks began to advertise the consumer benefits of shopping with a New Jersey bank credit card, just as they now advertise their latest bargains on other consumer loans. Moreover, a number of banks, including those in Arkansas and Washington State are charging interest rates far below those here in New Jersey, and last we looked, banks in those states are still happily dispensing credit cards.

Some banking industry representatives have suggested that high credit card charges are necessary to recoup the losses they incurred previously. It is frightening to imagine that banks might try to recover from the nation's 90 million credit card consumers the losses they suffered through bad judgement on energy, agricultural, and foreign loans. On credit cards, loss rates have remained just over 1% of loan volume, and card operations have emerged as one of the most profitable areas of banking.

In addition, interest rates represent only one way in which banks make money on credit cards. Annual fees, transaction fees, merchant discount fees, and over-limit fees all add to the revenues of card operations. Annual fees, which did not exist when cards were first issued, were imposed specifically to cover the high administrative costs the banks complain about.

A final argument made by the banking industry against this legislation is that by reducing the banks' profits, it will cause a severe reduction in the availability of consumer credit, especially to those with low incomes. It is true that lower profit margins may force greater scrutiny by the banks of those to whom they send so-called "pre-approved" card offers and other forms of mass marketing appeals. But this is what the banks are supposed to be doing. Instead, they now force the majority of consumers to subsidize through high card charges the granting of credit to those who may not be able to afford credit card loans.

This is not to say, however, that such consumers should or would be left without alternatives. For example, personal loans and home equity loans are available at rates far below most credit card interest rates. For those who want the convenience of a credit card but whose income or credit history make it difficult to obtain a conventional card, "collateralized" cards are available with credit limits tied to a deposit account balance. Finally, it should be noted that with 700 million credit cards already in Americans' hands, it is hard to imagine that we

are in danger of developing a shortage of credit cards.

No one is opposed to the banks making a fair profit on their credit cards, but their needs must be balanced with the interests of cardholders. As we learned in 1929, the economic health of our nation depends to a large extent on the faith and trust of the public in our financial institutions. As the members of this committee know well, state and federal regulation of banking activities exists not to penalize the financial community, but to prevent the kinds of abuses that undermine public confidence.

Financial deregulation, which has accelerated at the state and federal levels in recent years, brings with it a responsibility for fairness in dealing with Americans' hard-earned dollars. By keeping interest rates artificially high and disguising the hidden and costly terms of credit cards, banks are taking unfair advantage of consumers.

In any legislation intended to protect consumers from unreasonably high credit card charges, Bankcard Holders of America urges this committee to consider the following actions:

1. As in the legislation before you, credit card interest rates should be tied to some economic index that reflects the cost to the banks of borrowing money, plus some margin for costs and profits.
2. There should be improved disclosure laws requiring the prominent and understandable display in all advertising and in all statements accompanying monthly bills of the terms and conditions applicable to credit cards.
3. There should be greater uniformity and simplicity in the calculation of interest charges so that, for example, a grace period is required for all current-month charges, regardless of whether an unpaid balance has been carried over from the previous month.
4. Limits should be placed upon the imposition of additional fees, such as annual fees, over-limit charges, transaction fees, etc.

Finally, I thank the Committee for this opportunity to present the views of Bankcard Holders of America. These are important issues to the citizens of New Jersey and to the nation, and we appreciate your attention to them.



STATEMENT OF SAMUEL J. DAMIANO, PRESIDENT
NEW JERSEY COUNCIL OF SAVINGS INSTITUTIONS
BEFORE THE
SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE
APRIL 17, 1986

Mr. Chairman, Members of the Committee, my name is Samuel J. Damiano, President of the New Jersey Council of Savings Institutions, an organization of savings banks state and federally chartered.

I am here today on behalf of that industry to speak in connection with a series of bills addressing rate ceilings and credit card advances.

Briefly, we should note that savings banks in New Jersey are recent entrants into the credit card business with less than 10 involved in some form of credit card services.. We are unaware of any abuses being imposed upon the consumer as a result of our activity, which was granted by state statute and enacted in response to customer demand for expanded credit card services in New Jersey.

Admittedly, entry into this market has been slow. High interest rates, deregulation, new competition and matters important to the overall operation of savings banks has preoccupied the industry. That coupled with the administration of a credit card program, the initial investment, training, susceptibility to fraud and the like, certainly has contributed to our slow entry.

As you know, on March 31st we saw the end to interest rate

ceilings on all deposit accounts suggesting that the cost of funds will inevitably rise, if for no other reason, purely as a result of competition. Increased costs of funds require management to seek out increased returns on investments. Having survived the period of the early 80's, the industry today is giving its total concentration, after massive losses to a return to profitability. The alternative to maintaining a profit margin in today's environment is to discontinue offering the services. Simply stated, no one should be happy about keeping their savings in an institution that is losing money.

The market must be allowed to function on both sides of the ledger. A reduction in services will force those who need the services, to go elsewhere, and possibly not in their best interests.

The Federal Reserve Board testifying before the United States Senate Banking Subcommittee recently, let it be known that they oppose legislation that would set ceilings on the interest rates that may be charged by banks and other issuers on credit cards. They argue and I quote "regulatory measures can have unpredictable and unwarranted consequences," suggesting that the issuance of cards to fewer people by credit card companies could be a direct result of artificial ceilings, adding that such an action could make it more difficult for low income people gaining access to credit opportunities.

Dr. Paul Nadler, Professor of Finance at the Graduate School of Management, Rutgers University, has said on the subject "under the guise of protecting the borrower we are really limiting his ability to borrow and his freedom to obtain the money he wants and is willing to

pay for".

Ideally, we would rather see adequate disclosure to the public so that there is no question. The consumer should know the terms under which he or she is borrowing and we endorse wholeheartedly, this, as the more viable alternative to the imposition of any controls, especially during these final phases of deregulation.

We believe S 1561, if it touches on all providers, would accomplish that objective.

I thank you for the opportunity to comment and will be happy to respond to any questions you may have.

JAMES J. HOWARD
3D DISTRICT, NEW JERSEY

CHAIRMAN
COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION

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Congress of the United States
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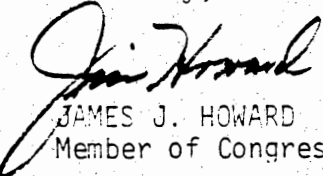
Honorable Raymond Lesniak
Statehouse Annex
Room 259
Trenton, New Jersey 08625

Dear Senator Lesniak:

Thank you for your invitation to testify before your committee on April 17. Unfortunately, as the House was in session, I was unable to attend. Please find enclosed, however, a copy of my testimony for the record.

With best regards, I am

Sincerely,


JAMES J. HOWARD
Member of Congress

JJH/nf:cmr
Enclosure

113X

TESTIMONY OF REP. JAMES J. HOWARD
BEFORE THE COMMITTEE ON LABOR, INDUSTRY, AND PROFESSIONS
NEW JERSEY STATE SENATE
APRIL 17, 1986

Mr. Chairman, thank you for the opportunity to present testimony to your committee to address a problem facing millions of Americans; one which has a special significance for inhabitants of New Jersey who live in the economic shadow of large New York City banks. I speak of the usurious rates charged by banks to consumers on credit card loans.

In 1981, the economy lent itself to high interest rates. The prime rate was 17.5% and inflation was reaching the unprecedented figure of 14%. It was reasonable in 1981 that the interest rates on credit cards had climbed to 18%. However, in January 1986 when inflation is a shade over 4%, credit card interest rates for many of the country's largest banks had climbed to 19.8%. Clearly this demonstrates that non-economic, non-market forces are acting upon these rates.

Banks naturally incur higher costs on credit card loans than on other loans. Monthly billing, small principal amounts, and the open nature of the credit are legitimate reasons for a slightly higher cost. Yet these remain relatively constant and cannot explain the great disparity between credit card loans and other bank loans. By far, the highest and most variable cost to banks lending to credit card holders is the cost of money. The best judge of this cost is the interest rate on three month Treasury bills - currently at 5.43%. This represents more than a 50% fall in the cost of money to banks since 1981. However, credit card interest rates have continued their inexorable rise. It is time for the Congress to consider first and foremost the protection of the consumers subject to these rates.

Mr. Chairman, I have cosponsored legislation, H.R. 3408, the Credit Card Interest Rate Limitation Act of 1985, which offers the best of both market

determination of rates and federal protection of the consumer. This bill would require the Board of Governors of the Federal Reserve Board to investigate the problem of high credit card interest rates. If the Fed finds that market forces are determining these interest rates, then no federal action will be taken. If, however, the opposite is true and interest rates on credit card loans are not competitive, then a federal ceiling will be instituted. This ceiling, adjusted quarterly, would be equal to the interest rate on three month T-bills plus an additional 6%. The cap would be dependent upon the average T-bill rate during the second month of the preceeding quarter in order to allow banks ample time to adjust their lending rates accordingly.

The T-bill rate was chosen as a guide not only as it is an excellent indication of the short-term cost of money, but it is a rate determined by the market. A figure of 6% over the T-bill rate allows banks to compete with each other within a range of interest rates. H.R. 3408 would, in addition, supercede state laws mandating that banks announce credit card interest rate increases six months in advance. Such laws serve only to inhibit the lowering of rates by banks as they fear the rapid fluctuation in the cost of money.

An interest rate of 6% over the T-bill rate is not unreasonably low. Smaller banks already have credit card rates nearing this figure: Ohio's Gem Bank is at 13% and the Simmons bank has rates at 12.5%. Larger banks maintain much higher credit card loan rates. As of January, Citicorp, Bank of America, the First National Bank of Chicago, and Chase Manhattan all had credit card interest rates set at 19.8%. The large banks can be competitive, however. Merely three weeks after this bill was introduced, Manufacturers

Hanover lowered its rates to 17.8% to show a willingness to cooperate. Yet to my knowledge few, if any, banks have followed suit.

Mr. Chairman, I do not view this legislation as undue government intervention in the market as many contend it is. On the contrary, H.R. 3408 is an attempt to bring back market competitiveness and to end an oligarchic situation. It is also an essential step in protecting the holders of the United States' 700 million credit cards. When banks can borrow at the Federal Reserve's discount window at an interest rate of 6.5% and lend to credit card users at a rate of 19.8%, the consumer's best interest is obviously not being served. I hope I have your support on this issue. Thank you.



Seton Hall University

1111 Raymond Boulevard, Newark, New Jersey 07102

April 14, 1986

Senator Raymond J. Lesniak
Labor, Industry and Professional Committee
State House Annex
CN068
Trenton, NJ 08625

Re: Credit Card Interest Rates

Dear Senator Lesniak:

I understand that the committee will hold hearings on April 17, 1986 on various bills in connection with credit card interest rates. I am unable to attend the hearing. However, I write in support of lowering legal rates chargeable on credit cards. I do so because of the devastating affect high interest rates now charged on cards have on lower income individuals.

Over the years I have represented many lower income individuals in bankruptcy proceedings. One of the patterns which emerges from my experience is that of the lower income consumer who becomes so financially strapped because of credit card indebtedness that there is no alternative other than bankruptcy. Typically, a lower income consumer acquires several cards with credit lines between \$750 and \$1500. Once an unpaid balance is carried on an account high interest rates means that even while the consumer makes minimum monthly payments and refrains from current purchases on the cards, he/she makes little progress in reducing the unpaid balance. Thus the cost of past consumption becomes a "fixed" expense and neither money nor credit is available for current consumption. In these circumstances, even a short period of unemployment often causes a consumer to fall hopelessly behind on these debts.

Lower credit card interest rates would, of course, benefit all consumers. The greatest benefit would be to low income consumers who experience real hardship in meeting the high cost of credit card use.

Sincerely,

Michaelene Loughlin

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April 17, 1986

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TESTIMONY TO THE NEW JERSEY SENATE LABOR,
INDUSTRY AND PROFESSIONS COMMITTEE ON
CREDIT CARD INTEREST RATES: S.1632 ETC.

Legal Services of New Jersey supports S. 1632, a bill which would
limit interest rates on credit cards.

Legal Services of New Jersey, Inc. is a non-profit corporation founded and funded by the 14 independent Legal Services projects serving the State of New Jersey, to assist them in their efforts to render effective legal representation to indigent clients unable to retain private counsel. Attorneys from the county Legal Services projects commonly encounter and assist clients with problems relating to credit, financial distress and bankruptcy. Legal Services of New Jersey sponsors a task force where attorneys from the various county projects gather to discuss specifically problems in the Consumer and Bankruptcy areas. I am a Legal Services attorney who specializes in consumer and bankruptcy cases.

Legal Services of New Jersey wishes to bear witness that the interest rate on credit cards is not solely a problem of middle class consumers, but affects low income people as well. We find that a substantial number of the eligible clients whom we counsel and represent about financial problems have credit card debts. Sometimes our clients have procured credit cards despite having low incomes; other times they obtained the cards while they were enjoying adequate incomes before an unforeseen descent into indigency. It is the nature of credit cards to induce consumers to gamble

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118X

that they will have money tomorrow to pay for the goods and services they enjoy today. Sometimes they lose that gamble due to illness, loss of employment, or marital breakup--things that they could not anticipate--and then they are left with reduced incomes but ever-mounting credit card debts. Thus interest on credit cards is a subject of great concern to Legal Services.

The second point I wish to make is that the level of interest rates is more than an academic matter; more than a mere shifting of money from one pocket to another. For upper-income people, interest rates only affect how much money they pay, and that is important enough. But for low-income people, interest rates also determine whether they can pay back their debts or must go into default.

On a credit card debt of \$1000, if the interest rate is 20% APR a consumer has to pay \$200 per year just to stay even. A person who has just that much money can just stay even; a person who has less to spend cannot. The lower the interest rate, the more people there will be who can pay their way out of credit card debt rather than face default.

Presently, credit cards are a major component of the debts of people we represent in bankruptcy. Yet a lot of people call me in financial distress and say, "Isn't there some way I could just stop the interest from piling up? Then I could pay off my debts." I have to tell them that there isn't any way, and if they can't keep up with the interest they are likely to end up in bankruptcy as much as they would like to avoid it.

There is a way that this Legislature could help, by making that interest pile up slower. The market alone has not accomplished this: consumers are not powerful enough to demand lower rates; they may not even appreciate the problem until they find themselves in over their heads. Rates on credit cards for our clients have not come down as other interest rates have. We conclude that if the Legislature does not do something to help, no one will. For this reason we endorse S.1632.

Submitted by: Gail Chester, Esq.