The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank my colleague from Missouri. He is absolutely right. The interchange fees are a tremendously important issue. We have put in, at the urging of Senator CORKER on our committee, a thorough study of the interchange issue. It is complicated, and the Senator is correct. Among small businesses, this is a very onerous area and we need to address it.

I thought we needed to understand the fullness of the issue, so we talked about the study. Senators DURBIN, BOND, and others have a proposal that touches on the interchange issue. We are working with them to see if we can reach an agreement on that. We will make an effort to do that. I thank the Senator for his comments.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 627, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

Pending:

Dodd/Shelby amendment No. 1058, in the nature of a substitute.

Landrieu amendment No. 1079 (to amendment No. 1058), to end abuse, promote disclosure, and provide protections to small businesses that rely on credit cards.

Collins/Lieberman amendment No. 1107 (to amendment No. 1058), to address criminal and fraudulent monetary transfers using stored value cards and other electronic devices.

Mr. DODD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. DORGAN. Madam President, I have been on the floor often talking about the subprime loan scandal that led to the financial crisis we are involved in, in this country. I have held up charts on the floor that describe the solicitations from the mortgage companies and others that say: Come to us. If you have bad credit, if you have been bankrupt, come to us. We want to give you a home loan.

I have shown all of those—from Zoom Credit, from Millennium Mortgage, from the largest mortgage company in the country, Countrywide—all of them saying to people: You know what, if you have bad credit come to us. We want to loan you some money.

That subprime loan scandal was a tipping point for a significant difficult time for this country's economy and that time includes right now. I have talked about that at great length. But today we are talking about credit cards. The same influence exists with respect to credit cards. We have companies that just wallpaper this country with credit cards. Go to a college campus and try to find out how many credit cards they stick on those college campuses preapproved, saying to these kids: Get our credit card, please. Walk through the concourse of an airport and see how often you are accosted by someone who wants you to take their credit card. It is all over.

Last year the economy tipped over, and we went right into a financial crisis. But in that year, 2008, 4.2 billion credit card solicitations were mailed to consumers. Let me say that again. In the middle of an economic crisis, at a time when there was so much unbelievable leverage and debt out there, companies in this country sent 4.2 billion credit card solicitations to people.

Yes, some of them went to kids. The fact is, I spoke on the floor years ago about my 10-year-old son getting a Diners Club card saying it is preapproved, we want you to consider going to Paris, France. My son wasn't going to France. As a matter of fact, he was 10 years old, for God's sake. He had no money. He wasn't going to get a credit card. Was it a mistake that they sent him a credit card solicitation? Probably. But I went to the floor one day with a whole pile of them, saying you are preapproved, please take this piece of plastic, spend it where you want, as much as you want. Madam President, 4.2 billion new credit card solicitations went out last year alone. They don't seem to care who gets them, as I said with home mortgages, which are much larger than most of the limits on credit cards. For home mortgages they solicited people with bad credit. You have been bankrupt? Come to us. You do not pay your bills? Come to us. That is a business model I never learned about, by the way, but it is what happened. They created the house of cards and the whole thing collapsed.

With credit cards, the big companies out there—and by the way it is heavily concentrated—wallpaper this country with preapproved credit card solicitations: Come to us, load up; come on, spend what you don't have on things you don't need; come on, you can load up on my card.

Then when they got everybody with all these cards and substantial balances on the cards, here is what happened. This is a person from Minot.

My wife and I both have credit scores greater than 800 and have never been late on any of our payments so it is odd that Capital One just sent us a notice that our interest rate on our credit card will almost triple.

There they are, using a plastic credit card, paying their bills on time, and they are told we are going to triple your interest rate. At least they know it. That is not an excuse, but a whole lot of folks don't even know it.

Here is another constituent who wrote to me.

I just wanted to let you know how upset I am with my credit card company—Citibank. They have decided to raise my interest rate to 27 percent. I have always paid my bill on time and have a good credit rating—820. Why would a company who was bailed out by taxpayers because of bad practices then decide to stick it to us by raising the interest rate so high that it is competitive with the local Mafia rate?

There is no Mafia rate in Fairmont, I might say, but I get the point.

Williston, in my State:

Enough is enough. We shored up these banks with our hard earned tax dollars just to have them raise the interest rates on their credit cards to 28 percent and 26.3 percent—that's Bank of America and Capital One—for absolutely no reason. Something must be done.

One more:

I received a letter from my credit card company—

This person from North Dakota writes—

the Bank of America, that they are upping my interest rate from 7.99 to 18.4 on my credit card and we have not been late with a payment. We have been with them for 15 years. I want you to know I am really angry over this. Billions have been going to these banks and this is what we get for it.

Here is a solicitation for a bank debit card, Visa. You might look at that and say what are they trying to solicit? Some 70-year-old codgers who are retired, sitting around worrying about their teeth? No, they are trying to solicit kids. That is the purpose of the bow. It is a little like Joe Camel and cigarettes, except this is much more obvious, a credit card for kids. It is pink with a beautiful little bow.

Here is a statement from Bruce Giuliano, a senior vice president with a company that owned the Hello Kitty brand.

We think our target age group will be from 10 to 14 although it could certainly be younger.

How much younger than 10 years old can you get people to start using credit cards? That is unbelievable.

We think our target age group will be 10 to 14.

Here, by the way, is the Hello Kitty brand I was describing. Does it seem to you like they are targeting that 10-year-old to 14-year-old? It is a nice little pink thing with a kitty, new Platinum Plus Visa credit card with world

point rewards. If they could couple this with an airline and get 10-year-old kids flying to France, they would have what my son experienced, plus a pink credit card. It is unbelievable to me. We wonder why people are upset. You have a bunch of companies out there going after your kids to see if they can put plastic in their pockets, kids who never had a job and will never get a job—at least not when they are 10 years old—saying: Load up on debt.

Here, First Premium Card says:

Get our platinum credit card. We have a platinum card. Even if your credit is less than perfect.

Once again, a solicitation to say if you don't do so well paying your bills, we have a credit card for you.

Has anybody thought through that maybe this is what steered the country into the ditch? Has anybody thought about that? By the way, some of these financial companies are the ones that have gotten very large bailouts from the Federal Government.

This is interesting. This is a credit card, presumably, for somebody who does not pay their bills so well. So it is hard for them to get a credit card. Here is what they are going to do. It looks pretty good. It is actually a gold card with a $250 total credit limit. The problem is the annual fee is $48, the setup fee is $29, the program fee is $95, and the monthly servicing fee is $7. So if you pay all these fees to that bank, you get to have a piece of plastic in your purse or your wallet that allows you to charge up to $250. What an unbelievable opportunity for people who are not thinking or do not know or at least have been cheated by a company that suggests these terms.

This chart simply describes a college credit card. Everybody makes money on credit cards. That is why they accost you when you are going through the concourses at an airport—the airline is actually pushing credit cards. They are all making money on credit cards—including some colleges, by the way.

They wallpaper all of those college hallways with credit cards because if you can get someone at that age to start using credit cards with your company, then you have got them for a long period of time.

Now, 84 percent of undergraduates in college had at least one credit card, up from 76 percent in 2004. Midwestern students continue to carry the highest average number of credit cards, with more than half of the students—think of this—more than half of these college students have four or more credit cards. Again, a cultural lesson about debt? I don't think that is a lesson we want college students to understand. I am not suggesting college students should not have a credit card. I understand the value of that. But they ought to have a limit.

By the way, here is the other thing that happens with credit cards and college students. You cosign a credit card as a parent for the college student who does not have a job, and it is not very long before the credit card company ups the limit to the college student without telling the cosigner. I know that is an interesting business practice, to be pushing additional credit toward those who do not have income, but it is part of the culture of this country, I guess.

Undergraduates are carrying record-high credit card balances. The average balance grew to $3,100—the highest in the years the study has been conducted—and 21 percent of undergraduates had balances between $3,000 and $7,000.

My point is simple: This is some of the same culture and some of the same difficulty that has tipped this country's economy over, beginning with the subprime loan scandal in housing but very quickly going into credit cards.

Someone said to me a while back: You know something, nobody spends money like the Federal Government. I am talking about debt. The Federal Government has run up all of this debt. Shame on the Federal Government.

I said: I agree with you. This Government has to decide it can only deliver Government to the American people that the American people are willing to pay for. We cannot continue with these deficits.

But, I said, understand this: It is not just the Government. This culture has had a dramatic runup in household debt, a dramatic runup in corporate debt, you name it, all across the board, including trade debt.

But we are here today because Senator DODD has brought a bill to the floor with his colleague, Senator SHELBY, and they deserve great credit. They deserve a lot of credit from the American people for doing this. It is a piece of legislation that begins to put the brakes on, puts a bridle on those who are engaged in practices I have just described: aiming credit card solicitations at 10-, 12-, 14-year-old kids, wallpapering college campuses so that kids came up with four or more credit cards. The fact is many of these companies got involved in all of these unbelievable instruments—credit default swaps, CDOs, and shame on them. Shame on WaMu, shame on Wachovia, shame on the companies that did it. They are supposed to be banks. Banking is supposed to be reasonably conservative. Instead, they loaded up with unbelievable debt.

Now some of the same companies, by the way, that are putting credit cards out all over this country are saying to credit card customers: You know, I understand you have never been late, never missed a payment, been a customer for 20 years, but you know what, your 7.9 interest rate has now gone to 26 percent, and you are lucky we told you because some people are not going to know it. By the way, we are going to add some additional fees, and we do not care what you think about this.

This legislation says: No more. You cannot do that. It says: If you are going to go in this direction—way overboard, in many cases cheating customers—then we are going to put the brakes on.

Some people say: Well, of what business is it of the Government?

Well, you know what, we have a responsibility, it seems to me, to stand up for consumers. In this case, you have some very large companies that have engaged in this business and now, in recent years, have decided to impose very substantial fees and very high interest rates, in a way that I believe takes advantage of the people. These people are good citizens, pay their bills on time, are conscientious about it, and now discover that the company they have had a relationship with for a very long time has imposed all kinds of dramatic penalties and fees that customer does not deserve.

So this legislation is legislation that I believe will pass the Senate with a very wide margin. Why? Because I think those companies that have done this have invited this today. They asked for it. This Congress has a responsibility to stand up for the interests of the American people.

I come from a State in which Teddy Roosevelt lived for a while, and he always said: Had it not been for my time in North Dakota, I never would have been President. He was a rugged guy, and he went out there and ranched in North Dakota.

By the way, he was in the depths of despair because both his mother and his wife died in his home on the same day in New York. Think of it, losing your mother and your wife the same day on different floors of the same home. He went out to try to renew his spirit in the Badlands of North Dakota. He became a rancher and later became President of the United States.

One of the things I remember him for and the country remembers him for is as a ''trust buster,'' willing to take on the big interests, willing to stand up to the big interests when they rip into the interests of the American consumer, the American people. Thank God for what Teddy Roosevelt did in so many areas in trust busting.

In many ways, this is a smaller piece of that larger issue, taking on the bigger interests when they are taking on the American citizens in a way we believe is unfair and untoward.

So I came today simply to say to my colleagues, Senator DODD and Senator SHELBY, that I appreciate the work they have done. I am a strong supporter of this legislation, and I know we have some amendments back and forth. At some point, I am going to be proud to cast a ''yes'' vote.

I am not suggesting credit cards are bad—far from it. Credit cards are very helpful to the American people. I am suggesting there are some practices that have occurred that go way beyond that which is reasonable, and we are going to try to rein that in with this legislation.

Mr. CARPER. Madam President, I rise to speak for several minutes on the

legislation that is before us today dealing with credit cards, something that most of us have a personal experience with—we use them; we have had good experiences and bad experiences. In some respects, those experiences guide our views with respect to how we should legislate. That is understandable. It is true with me too.

Earlier today, I had a chance to participate in a number of call-in radio shows, some specific to Delaware, one to the Delmarva Peninsula, and one a national call-in show. People raised a variety of different issues about the legislation we are debating. What I did with some of the listeners, I took them back to the beginning and said: The reason why this legislation is before us actually grew out of the work of the Federal Reserve, which was begun over 2 years ago. The Federal Reserve sought to use their authority under the—I think it was the Federal Trade Commission law that says they have a responsibility to protect consumers. That includes protecting consumers as they use credit cards.

For roughly 2 years the Federal Reserve held hearings, received input from consumer groups, from individuals, from the industry, from other regulators, as to how we might better protect consumers.

In the end, the Federal Reserve sought to strike a balance. They sought to strike a balance that was fair to consumers and better protected their interests, which need to be better protected, and at the same time not to further disadvantage our financial institutions in this country, many of which are struggling literally to survive. That was the balance the Federal Reserve sought to strike. The Federal Reserve promulgated regulations last December after literally receiving tens of thousands of pages of comments on the draft regulations they promulgated earlier, last year.

What we are doing now is, rather than simply waiting on the Federal Reserve regulations to be implemented between now and July 1 of 2010, Congress is seeking to codify, to literally turn into law those regulations and in some cases to move the effective date of those regulations up earlier and in some cases to add some provisions that were not covered by the regulations.

One of the changes that is affected in this regulation was not raised in the regulation. It deals with credit cards and kids. It is really credit cards and people under the age of 21. My boys are 19 and 20. They are in college. They have been receiving preapproved credit card applications for a number of years, including when they were in high school. I think Senator DODD has talked about one of his girls, who I think is 7 or 8 years old, having received a preapproved credit card application at the tender age of 7 or 8.

The question is, do we need to do something differently? It is interesting that the Federal Reserve, in their regulations, did not think so. The legislation which comes out of the committee and comes to us for consideration says, no; we should do something. What the legislation calls for, for us to do differently in this country, is if a young person, under the age of 21, wants to sign up for a credit card, either, No. 1, their parent or guardian has to cosign for them, with them, for that credit card, or, No. 2, the young person has to demonstrate the ability to pay their debts.

For the most part it means have a job, have a source of income to pay their debts. That is something that is in addition to the Federal Reserve. I agree with that. I think it is a good change, and I think most of my colleagues do, too.

In terms of being guided by your own personal experiences, I don't know about the rest of you, but one person who called in today on a call-in show said: Why don't we just let the marketplace make the decisions for us? We are smart. We get these credit card solicitations in the mail. There are a lot of choices. Let the marketplace work, and let people choose what card they want.

As it turns out, we have a lot of smart people in the Senate, maybe staff who are even smarter. There are a lot of people in this country who, frankly, have not had the opportunity for an education that some of us have had, and they lack, as do some of us, the financial literacy that will enable them to make the right decision on a multitude of options, choices; to understand them, read the fine print and understand how it will impact them.

As a result, we are not going to just let the marketplace work as it worked in the past because it didn't work perfectly. What we are trying to do is correct some of the bad behavior, clean up some of the behavior on the part of the credit card issuers, and that will get to a point where the marketplace can work, and the market will actually work on behalf of consumers. That is really what we want to see happen.

I will use a couple of examples from my own personal life. I have three credit cards that I use. One of the credit cards I use is for my personal use. Another credit card I use is for government-related expenses, official business. A third is for campaign-related expenses. The Presiding Officer may have a similar kind of arrangement. It helps keep everything straight for me. That is a benefit, a real advantage, and I believe it is an example of how our credit cards can be used for our advantage.

I had a credit card several years ago for campaign-related expenses. I lived in Wilmington, DE. The credit card bill had to be paid in New Jersey. I was getting the bill about 10 days before it was due, and in one instance I remember sending a check for that bill and it took 5 days for my check to actually get to the credit card company and be credited as a payment—5 days, Wilmington, DE, to New Jersey. I could have driven it in less than 5 hours, but it took 5 days to credit.

The other thing I noticed about the credit card company, the due dates for my bill were always Saturdays or Sundays. They didn't process on Saturdays or Sundays. I finally realized what was happening, and I said we will not use that credit card again. I tore it up, paid it off, and got another credit card that did not have that problem. That is an example of letting market forces work.

Hopefully, a lot of us are smart enough to be able to do that sort of thing, but honest to God, not everybody is as sophisticated as they need to be to be able to lay that out for themselves.

Another issue that has come before us is the issue of caps, our credit card limits. If Senator GRASSLEY over here has a credit card limit, and I am his credit card issuer, he has a limit on the credit card he has from us, from our company, say, a $1,000 limit. Currently, if he exceeds the $1,000 limit, we let him. My credit card company lets him exceed it and he starts paying fees. If he continuously goes over the limit, he pays more and more fees.

I don't think that is the way the system should work. The Presiding Officer doesn't think that is the way the system should work. The legislation before us says that is not the way this system should work.

Going forward, when a person signs up for a credit card, if there is a limit—we will say there is a $1,000 limit—unless the cardholder objects, that will be a limit. It will be a hard cap. If the cardholders want to exceed that limit, they may do that, but they fully acknowledge that they will accept fees in doing so. I think that is a reasonable way to approach this.

There is another major issue that has been before us, the issue of whether the credit card companies should be able to assess risk and charge for that risk, the perceived higher risk on the part of the cardholder. We worked with Senator SHELBY, who is here today, to try to strike a reasonable balance that says, again, I am a credit card company, he is the credit card holder, and we send him his statement. He doesn't pay within 30 days. What the Federal Reserve said is after 30 days, credit card companies should have to charge a higher interest rate. We changed that a little bit, and we say we will give the cardholder 60 days. If the cardholder has not paid a minimum payment within that 60 days of it being due, the credit card company can raise the interest rate; however, we give the holder of the card 6 months on-time payments, minimum payments for 6 months, to earn back the lower interest rate. To me, that seems like a fair balance, looking out for the consumer, looking out for the company in addition.

I want to mention, yesterday we had the opportunity to debate the question of a usury ceiling. The question was 15 percent—shouldn't we have a 15-percent uniform usury ceiling on credit card rates. Maybe 33, 35 people voted

for it. I did not. I said to my colleagues wondering how they should vote, there are actually two or three problems with the amendment before us, or any usury ceiling rate.

If it is a 15-percent ceiling rate, the idea was we should limit banks to charging 15 percent because credit unions are limited to 15 percent. As it turns out, credit unions do not operate under the same rules of the road as banks. The banks complained the credit unions get a break and the banks do not enjoy that in a number of ways. To simply say because the credit unions are capping at 15 percent we ought to cap the banks at 15 percent, frankly, it is not a logical argument in my mind.

One thing I know is, if there were a limit of 15 percent, everybody here, all the Senators, would be able to get credit. Most of our staff would be able to get credit. The folks who would not be able to get credit are lower income people. They wouldn't be able to get a credit card because they may have a high risk, and if they do have a high risk and it is proven by their payments scheduled over time, those people are going to be cut off. That is not an intended consequence, it is an unintended consequence, but by virtue of not adopting yesterday's amendment we allow credit card companies to charge eventually for risk, but at the same time to offer the credit card holder the opportunity to earn back a lower rate of interest.

I compliment Senator DODD. I commend Senator SHELBY and their staffs. They have worked very hard to get us to a point where all of us, whether we happen to come from States where we have a lot of credit card companies or we happen to come from States where we have a lot of credit card holders, to try to get a right balance. I think you came really close to doing that. I understand we may have one amendment offered later today dealing with fees that are paid by, in some cases, the merchants—the interchange fees. I understand there is language in the underlying bill that says—this is not something on which we have had hearings, I understand, in the Banking Committee. I understand maybe other committees have had hearings on it years ago. We have not had hearings on this in the Banking Committee. It is a lot more complex than people would lead us to believe.

Why don't we give the appropriate agency, and I think in this case the GAO, the Government Accountability Office, a year to come back to us, study this, vet it, and tell us: This is what we think you should do. To me, this makes a lot more sense on the Senate floor, without having had the benefit of hearings, informed hearings from the Banking Committee, to tell us what we should do. Let's take our time and let's do this right.

I commend my colleagues. I thank them for giving my staff and me, other Members who have had an interest, whether on the committee or not, the opportunity to weigh in, express our concerns, and have the opportunity to shape in a small way the outcome of this legislation.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 1107, AS MODIFIED

Mr. SHELBY. Madam President, I now ask unanimous consent the Collins amendment, No. 1107, be modified with the changes at the desk.

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

The amendment as modified, is as follows:

At the end of title V, add the following:

SEC. 511. STORED VALUE.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(b) CONSIDERATION OF INTERNATIONAL TRANSPORT.—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

(c) EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

AMENDMENT NO. 1079, AS MODIFIED

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. I ask unanimous consent that the Landrieu-Snowe amendment No. 1079 be modified as it is presently at the desk.

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

The amendment, as modified, is as follows:

At the end of title V, add the following:

SEC. 503. EXTENDING TILA CREDIT CARD PROTECTIONS TO SMALL BUSINESSES.

(a) DEFINITION OF CONSUMER.—Section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(h)) is amended—

(1) by inserting ''(1)'' after ''(h)''; and

(2) by adding at the end the following:

''(2) For purposes of any provision of this title relating to a credit card account under an open end credit plan, the term 'consumer' includes any business concern having 50 or fewer employees, whether or not the credit account is in the name of the business entity or an individual, or whether or not a subject credit transaction is for business or personal purposes.''.

(b) AMENDMENT TO EXEMPTIONS.—

(1) IN GENERAL.—Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended—

(A) in paragraph (1), by inserting after ''agricultural purposes'' the following: ''(other than a credit transaction under an open end credit plan in which the consumer is a small business having 50 or fewer employees).''

(2) BUSINESS CREDIT CARD PROVISION.—Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended by inserting after ''does not apply'' the following: ''with respect to any provision of this title relating to a credit card account under an open end credit plan in which the consumer is a small business having 50 or fewer employees or''.

Ms. LANDRIEU. Madam President, I would like to speak for 3 or 4 minutes. I see my colleague from Iowa is here to speak, so I will not take any more time.

I spoke briefly about this amendment when I introduced it on behalf of Senator SNOWE and others who joined us, from both sides of the aisle. I have spoken at some length with the chairman and ranking member as well. I am hoping we could have a positive outcome on this amendment because it is so important to our small businesses in America.

We have been trying with some degree of success to actually help small businesses on Main Street in our communities. I say ''with some success,'' because we all go home on the weekends and we continue to hear very serious complaints from our grocery stores and our hardware stores and our shoe repair shops and our cleaners and our business owners saying: Senator when is any help coming our way? You are giving all of these billions of dollars to Wall Street and to these big banks. Yet we are here really struggling. Is anyone listening to us in Washington?

OLYMPIA SNOWE and I, as chair and ranking member of the Small Business Committee, are doing what we can, saying: Yes, we are listening, and we want to be of some help. Every bill that comes to the floor, we try to put a lens on it: How is this helping small business?

This bill is a good step to help consumers, individuals, persons, who have a credit card. Unfortunately, the way the bill is currently drafted, it leaves out small businesses.

My amendment with Senator SNOWE will simply put them in this bill so when this bill passes, we can have a real celebration about helping, not just individual cardholders but small businesses that are struggling to keep their doors open.

Madam President, you serve on the Small Business Committee. You have heard the testimony, immediate past testimony, of, really, businesses that have 500 employees that are struggling, to businesses that have 2 employees; from a conservative perspective, from a liberal perspective, that have come before our committee. That is how this amendment came to be.

As I reviewed the underlying bill and thought there were some terrific things in this bill that will help credit card users, let me just quickly say, it bans at any time, for any reason, increases in rates. No more can credit card companies just raise your rate any time for any reason. That is eliminated in this bill.

No longer can credit card companies charge you for a balance that you paid. If you owe $1,000, you send them a check for $900, they can still, under current law, charge you interest on the entire $1,000.

That is not fair. It is not fair to individuals. It is not fair to small businesses. That will be corrected in this bill.

It simplifies disclosures. Yes, I believe in the free market, but I believe in order to have a free market you need to be able to read the print. Sometimes not only is the print small, but it is almost difficult to understand. So it is more simple disclosures.

I think small business owners need that opportunity as well. It prohibits credit card companies from charging interest on transaction fees that they add to monthly bills. So small business will get that benefit.

This is, in conclusion, not going to solve every challenge that small businesses have, but at least they will know there are Members of the Congress, Senators and House Members, who hear them, who are trying to do what we can to respond, and this amendment will actually cover 26 million small businesses in America, in addition to the millions of other credit cardholders, perhaps over 50 million, maybe more. This will include small businesses with less than 50 employees.

I would like to help every business in America. I will continue to work on that. But for this bill, because it was directed to individuals, we thought by keeping it to relatively small businesses, it would fit in the overall scope and framework of this bill.

Senator SNOWE and I are going to continue to work to expand credit opportunities for businesses with your help. This bill also is supported by Senator SHAHEEN, as an original cosponsor, and Senator CARDIN. I wish to thank them very much for their support and help.

I see my colleague from Iowa and will reserve the remainder of my remarks for Tuesday, when I hope we can vote on this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

GOVERNMENT-RUN HEALTH CARE

Mr. GRASSLEY. Madam President, for the benefit of my colleagues, I will only be speaking about 11 minutes or so. I will proceed.

Yesterday—no, it was not yesterday, 2 days ago—the Medicare trustees announced that Medicare's Part A hospital trust fund will be insolvent in 2017. That is 2 years sooner than last year's estimate. This announcement shines a spotlight on an issue Congress cannot ignore. Our largest Federal health program is on an unsustainable course.

Medicare, according to the trustees, is going broke. We have all heard the reasons over and over: People are living longer, health care costs are increasing, and most seniors are developing chronic and very costly conditions.

All this leaves the Federal Government with a $35 trillion unfunded liability over the next 75 years because the trustees always look ahead 75 years. That is updated annually.

Some in Congress recognize the financial black hole that is looming before us. I hope my colleagues know I am working with Senator BAUCUS and other members of the Finance Committee to reform the way the Government pays for health care.

Our options for delivery reform will bring the Medicare Program into the 21st century by improving quality and reducing costs. We desperately need to retake control of the costs of the Medicare Program, obviously, so it can be around for future generations. Yet in the face of that reality, some people think the best way to accomplish health care reform is to create another entitlement program.

In the face of Medicare's pending insolvency, some people want to create a new public program, a government-run health insurance program. I am one of the most vocal supporters of health care reform. We need to improve quality, access, and affordability. But we need to understand by adding another unsustainable government-run health insurance plan into our health care system, it cannot be the answer.

We cannot afford what we already have, so let's add more. Put that against the commonsense test. It does not make much sense. As the saying goes: History is a vast early warning system. Today, debate over health care reform is eerily similar to the debate in 1965, before Medicare was created.

Let's look at that history. Before the bill became law, doctors, hospitals, and other health care providers were concerned about this new government-run health care program that was passed back then. We call it Medicare.

Much like today, way back then, they were worried the Government would use this program to ration care and cut payments. To deal with these concerns, Congress and the President actually promised back then to doctors and others that they would continue to be paid, as the law says, the usual and customary rates.

That is why, to this very date, the Medicare legislation still states this:

> Nothing in this title shall authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or compensation of any person providing health care services.

That was written in 1965. It is still in the law. But—and a big ''but''—we all know that the cost and the political pressure has increased.

As a result, this section that I quoted, written in 1965, has become meaningless. Time and time again, Congress has intervened in medical decisions and cut reimbursement rates. Legislation in the late 1980s placed limits on what doctors could charge and put in place a government-mandated fee schedule.

One American Medical Association trustee recounted the AMA's original concern about Medicare by stating it this way: ''Many of the things we feared have come to pass.'' Surprise. Surprise. Despite the promise to pay ''reasonable rates'' when Medicare was created, today the Government pays between 60 and 70 percent of what private insurers pay.

By setting payment rates well below costs, it is becoming more and more difficult for seniors to find a doctor who accepts Medicare. Access issues for Medicaid, as we all know, are even worse. But some say we can avoid these problems by putting the government-run plan on a level playing field with private insurers.

They say Congress could set up a system so the government-run health insurance plan has to follow the same rules as private insurers. They say it would have to pay the same rates, form networks, be independently solvent, all sounding good. My question is this: When this new government-run health insurance plan starts to cost too much, then following the pattern since 1965 with Medicare, is Congress going to start breaking its promises? Will it change the rules?

A recent Wall Street Journal article tried to answer this question this way:

> Any policy guardrails built this year can be dismantled once the basic public option architecture is in place . . . That is what has always—

And ''always'' is emphasized—

> That is what has always happened with Government health programs.

Maybe at first Congress somehow repeals the requirement that the government-run plan has to form a network. Next, Congress might allow the Government plan to start paying lower rates than private insurers, just like we have done with Medicare and Medicaid. At that point, Congress might let the government-run plan dip into the Treasury from time to time to keep the Government plan solvent.

This, of course, would increase costs for everyone. As the Government takes more and more control over the plan, providers would get paid less and taxpayers would end up paying more. Rates for government-run health insurance plans would be lower than private insurers because Government can impose lower rates by law, also known—can you believe it—as price fixing.

This is a common talking point for supporters of the government-run plan. They say the Government can use its numbers to lower costs. But as the Government cuts payments to providers, costs will go up for everyone who is left in the private market. Slowly but surely the Government plan takes over the market. Eventually, all the promises about creating a level playing field have been broken, and we would be left with a single-payer, government-run health insurance plan, such as Canada.

Canada brags about having a single plan. But Canada does not have just a single plan. There is a second plan, and it is called the United States of America. So if you do not want to wait around 3 months for an MRI in Canada, you can come to the United States, if you have the money to do it and the time to do it, and get it right away.

But what happens if you have such a plan in America? Where do Americans go for what the plan does not provide

for our people when you have delay? Well, we will not go to Mexico, surely. Eventually, all the promises about creating a level playing field will have been broken, and we would be left with a single-payer, government-run health insurance plan.

The simple truth is, supporters of a government plan absolutely intend for this to be the outcome. Independent analysis by the Lewin Group agrees. According to Lewin's work, 119 million people would lose their private insurance. In other words, they would be crowded out. They would end up where? On the Government plan.

It also breaks one of the most important promises that President Obama made during his campaign, and I agree with this promise. What is it? If you like what you have now in the way of health insurance, you can keep it.

Independent analysis has shown that a government-run insurance plan will drive up prices in the private market and force employees and employers to drop that coverage. So the President does not get his plan or his promise during the campaign kept.

This, of course, will make our emergency rooms more crowded than they are today. It will limit access to high-quality care through rationing and price fixing. It will increase waiting time for lab results and lifesaving and life-enhancing procedures. It will add hundreds of billions of dollars of new Government spending.

This is not the kind of change the American people are looking for. Instead of creating a government-run plan and making a bunch of promises Congress cannot keep, let's create stronger rules and regulations for the private insurance market.

For instance, we should prohibit health plans from denying coverage to people with preexisting conditions and provide tax credits to people who cannot afford coverage.

Instead of introducing a government-run health insurance plan that would cost too much, limit choices, and lower quality, let's clean up the private market. Instead of introducing a government plan, let's help President Obama keep his promise that if you like what you have in the way of health insurance, you can keep it.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of New Mexico.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. THUNE. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

GUANTANAMO BAY

Mr. THUNE. Mr. President, I have sought recognition to make a few observations on President Obama's request in the emergency war supplemental for $80 million in funding to close the detention facility at Guantanamo Bay. Shortly after taking office in January, President Obama announced, with much fanfare, the closure of the Guantanamo Bay detention facility. At the same time, he also said he would work with Congress on any legislation that might be appropriate.

But instead of consulting Congress, President Obama is asking for $80 million to close Guantanamo, with no justification or indication of a plan. The House Appropriations Committee has already refused to provide the funding because, in the words of the chairman of the committee, the President has no plan in place on what to do about the detainees housed there. We are now hearing reports that the Senate Appropriations Committee will be providing funding for Guantanamo and its version in the emergency war supplemental, but that it will be ''fenced off'' until the President provides a plan on disposition of the detainees held at Guantanamo Bay. I believe any plan to close Guantanamo that includes bringing these terrorists into the United States is a mistake. We don't want the killers who are held there to be brought into this country.

The administration is actively seeking to circumvent a Senate resolution which passed by a vote of 94 to 3 in July of 2007. That resolution stated the detainees housed at Guantanamo Bay should not be released into American society and not transferred stateside into facilities in American communities and neighborhoods.

In fact, not only does the Obama administration wish to hold open the possibility that some of these detainees may be transferred to facilities in American communities, it is even considering freeing some of them into American society. These are the 17 Chinese Uighurs whose combat status review tribunal records were deemed insufficient to support the conclusion that they are enemy combatants but cannot be returned to China because of fear that the Chinese Government will torture or kill them. At a press conference on March 26, ADM Dennis Blair, the Director of National Intelligence, went so far as to say:

> If we are to release them [the Uighurs] in the United States, we need some sort of assistance for them to start a new life.

However, the Uighur detainees are not simply unfortunate souls who happened to be scooped up on the battlefields of Afghanistan because they were in the wrong place at the wrong time. They took firearms training at camps run by the Eastern Turkistan Islamic Movement, which has been designated as a terrorist organization by the United States. They were at Tora Bora when we were heavily bombing that area and seeking to capture Osama bin Laden. The leader and chief instructor at these camps was Abdul Haq. In a Treasury Department advisory issued only a few weeks ago, the Obama administration labeled this man a ''brutal terrorist'' with ties to al-Qaida.

It is hard to believe that this administration is seriously considering freeing these men inside the United States, and, most outrageous of all, paying them to live freely within American communities and neighborhoods. The American people don't want these men walking the streets of America's neighborhoods.

Aside from the issue of turning loose into the United States people who have trained in terrorist camps, the American people don't want the Guantanamo detainees to be transferred to the United States and held in their backyards, either, whether at a military base or in a Federal prison. That is easy to understand when one looks at the details of the killers who are held at Guantanamo.

Guantanamo is home to some of the world's most dangerous terrorists. There are 27 members of al-Qaida's leadership held there, along with 95 lower level al-Qaida operatives, 9 members of the Taliban's leadership, 92 foreign fighters, and 12 Taliban fighters. Americans don't want these killers brought into the United States, but President Obama's January 22 of 2009 Executive order reads, in relevant part, that a review of all Guantanamo detentions:

> Shall identify and consider legal, logistical, and security issues relating to the potential transfer of individuals currently detained at Guantanamo to facilities within the United States.

In my view, President Obama is willfully ignoring the views of the Senate and its resolution passed, as I said earlier, by a bipartisan 94-to-3 votes. The detainees housed at Guantanamo should not be released into American society, nor should they be transferred to facilities in American communities and neighborhoods.

Since President Obama seems set on a course to bring these terrorists into the United States, I have worked with my colleague in the Senate, Senator INHOFE from Oklahoma, to introduce a bill that would prevent any taxpayer dollars from being used to transfer detainees held at Guantanamo to any facility in the United States or construct, improve, modify, or otherwise enhance any facility in the United States for the purpose of housing any Guantanamo detainees.

Transferring these terrorists held at Guantanamo to facilities in or near American communities could make those communities terrorist targets. I had the opportunity to question ADM Dennis Blair, the Director of National Intelligence, on the potential security threat of relocating the Guantanamo detainees to facilities in the United States during an Armed Services Committee hearing on current and future worldwide threats to the national security of the United States. Admiral

Blair acknowledged that moving those detainees to the United States ''does somewhat raise the threat level'' and ''does raise the concern somewhat.'' That does not give me comfort. If we must close Guantanamo Bay, it should not result in Americans being less safe.

Transferring these detainees would also stress the civilian governments in the communities where these detainees would be placed. These communities would be faced with overwhelming demand from roadblocks to identification checks, along with having increased security personnel necessary to deal with what is an obvious threat. The value of homes and businesses would decline. South Dakotans definitely don't want these detainees, and my support of the Guantanamo Detention Facility Safe Closure Act will help to ensure that these detainees will not be transferred to my home State of South Dakota or other States in the United States.

In conclusion, my view is that no Guantanamo detainee should be brought into the United States to be incarcerated, and certainly should not be brought into the United States and freed. Americans don't want these killers brought into their communities and neighborhoods, period. The Senate has clearly spoken on that front by a 94-to-3 vote on a resolution that we adopted in July of 2007 that detainees housed at Guantanamo Bay should not be released into American society and not transferred stateside to facilities in American communities and neighborhoods.

These detainees are hardened, trained terrorists who are very smart and extremely dangerous, who understand the strategic vulnerabilities of this country, and who are capable of exploiting any situation and any vulnerability to inflict death and destruction on the United States. These are not common criminals locked up in State or Federal prisons.

Guantanamo is secure. The facility is a $200 million, state-of-the-art prison. No one has ever escaped, and its location makes it extremely difficult to attack. Best of all, it is located hundreds of miles away from American communities. If President Obama wishes to close Guantanamo, he must do so in a way that keeps America safe.

In my view, America will be less safe if the Guantanamo detainees are brought into the United States. I will do everything I can to make certain that does not happen.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BROWN. Mr. President, I thank my friend from Arkansas, Senator LINCOLN, for her leadership on the credit card legislation and for her work on this bill. I also thank Chairman DODD for his work on the Credit Card Act. We have worked so many months on this vital legislation, and we are finally debating it on the floor. It is long overdue. For too long, credit card companies simply were not content in reporting record profit after record profit. They were not content making reasonable money at reasonable rates. They wanted more, and they wanted interest that was far above their cost for funds. They wanted fees and more fees and more fees. Up against your credit card limit? No problem. Instead of really being a limit, that ceiling served as a license to charge additional fees. For too long, the credit card companies convinced Washington to look the other way. No more.

While not all lenders that provide credit cards are engaging in the exorbitant and unethical practices, a great number are, and that is why this bill is crucial. It protects not only the consumer, but it protects the credit card companies from themselves. Nickel-and-diming doesn't begin to describe the billions of dollars out of which Americans have been cheated.

The bill would protect consumers from random, at-will interest rate increases and account changes. It would banish unfair application of card payments, and it protects consumers who pay on time and follow the rules. It would curtail fees and penalties and ensure that cardholders are informed of the terms of their accounts. This bill would help protect young people from credit card predators. We all know, if we have ever had teenagers in the last 15 years or so, that a huge number of solicitations keep coming at them. This legislation puts the well-being of millions of hard-working middle-class families first.

I have heard some outrageous complaints from big, multinational banks that claim this bill is unfair because to make the changes it requires would take years to implement.

It is a pretty weak argument for the big, sophisticated, multibillion dollar credit card companies, with armies of information technology employees and lawyers. It certainly doesn't take them a year to increase a fee or to figure out how to implement a universal default policy or to work the mathematical magic needed to implement retroactive pricing.

For too long, the big credit card companies didn't step up and do the right thing, so there should be no surprise that they must do so now. Millions of Americans—their customers—were left in the dark at the mercy of whatever sleight of hand or shell game credit card companies could contemplate. If there were a charge or policy imposed that consumers didn't agree with or understand, they were forced to dial a 1–800 number on the bill. If they were lucky, they could talk to an actual person who worked from a crib sheet on different ways to say no. If they took it further, they could run into an army of lawyers.

No more. Consumers in my State of Ohio, and across this country, are no longer alone. The Government is going to work for them. It is time our laws were on the side of hard-working men and women. That is why we are working on this comprehensive legislation protecting consumers from multibillion dollar predators.

Young people, who often are a prime target of these predators, will have heightened protections with this bill. I have spoken many times about the questionable practices of credit card companies which inundate our college campuses with their enticements and their advertisements. With the escalating price of a college education, and our Nation's financial problems, why would credit card companies dole out credit to unemployed or underemployed students? Because they can, and because no one has been willing to stand up to them, and no one—as this bill does—has been willing to stand up for those students. Now the Government is stepping in and will fairly regulate what was too often the wild west of consumer lending.

College students should have access to credit cards. They should have the ability to take out consumer loans. This is an important way to develop good credit practices and good credit for those students. But universities such as Ohio State—the Nation's largest university—tell their students to avoid taking on large amounts of credit card debt. Even so, many credit card companies flood campuses with deceptive advertising and hidden fees and penalties and unscrupulous practices. No more.

This bill shouldn't even be necessary. Credit card companies should be responsible corporate citizens. Sadly, many have not been willing to play fairly. Last November signaled a shift from large corporate shareholders running this country to middle-class families taking back the reins of government. This bill is one of the results of that change, with a new President and a different Congress actually putting the Government on the side of the middle class.

I am a cosponsor of the CARD Act, and because of that, I look forward to its passage.

I yield the floor, and I thank the Senator from Arkansas, Mrs. LINCOLN.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on the Collins amendment.

AMENDMENT NO. 1126 TO AMENDMENT NO. 1107

Mrs. LINCOLN. Mr. President, I call up a second-degree amendment to the pending Collins amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 1126 to amendment No. 1107.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that further reading of my amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Federal Deposit Insurance Act with respect to the extension of certain limitations)

At the end of the amendment, add the following:

SEC. 504. EXTENSION OF LIMITATIONS.

(a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting ''; and'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking ''equal to not more than the greater of—'' and inserting the following: ''equal to—

''(A) not more than the greater of—''; and

(4) by adding at the end the following:

''(B) the State's maximum lawful annual percentage rate or 17 percent, to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

''(i) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

''(ii) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

''(iii) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

''(I) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

''(II) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

''(III) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

''(iv) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).''.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

Mrs. LINCOLN. Mr. President, I begin by commending Chairman DODD and the ranking member, Senator SHELBY, for putting together such an important package of reforms to protect our consumers all across this great Nation. Without a doubt, rampant credit card debt is a problem facing a great and growing number of Americans. In my own home, my twin 12-year-old boys get preapproved credit card requests weekly—at the age of 12.

Looking at how we can do a better job of both financial literacy and helping people during this time of credit crisis to be able to do a better job in terms of responsibility, the Federal Reserve's most recent data estimates that the average American household now has about $2,200 in credit card debt compared to an average of about $1,000 in 1992, and overall household debt has risen drastically, more than doubling in this last decade.

Confusing terms, constantly changing interest rates, and high penalty fees have all contributed to this trend, as many people struggle to effectively manage their credit and their credit card use and the debt they have.

While it is the responsibility, obviously, of consumers and borrowers to manage their own financial affairs, it is also absolutely essential that we ensure they have all the information they need, in an easily understandable form, so that they are able to make fully informed decisions about their credit and the amount of debt they might be incurring and what it means to their families; what the long-term implications might be. It is also important that credit card companies provide stable, easy to predict interest rates, and reasonable penalty fees that do not overly punish innocent mistakes that might be made.

This bill, on which Chairman DODD and Ranking Member SHELBY have worked so tirelessly, has come together in a bipartisan way to improve consumer protections regarding excessive fees, ever changing interest rates, and complex contracts seemingly designed to do one thing above all, and that is to keep people in debt. This bill will clean up the fine print so consumers don't get blemished by their credit card companies.

I am very pleased to be supporting the underlying bill, because ultimately I believe it will help restore fairness and common sense in our Nation's credit card practices.

On that note, talking about fairness and common sense, I wish to discuss the second-degree amendment to Senator COLLINS' amendment I have called up. This is an amendment I am offering on behalf of the entire Arkansas delegation—the entire delegation as well as our State officials, and others. This is a critical legislative proposal that will provide temporary emergency relief for an Arkansas-specific interest rate problem that is having a severe impact on Arkansas students, our consumers, our businesses, as well as our municipalities and our State government. We are all, in Arkansas, affected by this situation.

Arkansas is the only State in the Nation with an artificially low interest rate limit that is tied to the Federal discount rate. Under current law, the interest rate on special revenue bonds and nonbank consumer loans may not exceed 5 percent above the Federal discount rate, which is currently set at one-half percent. So we are completely uncompetitive. Other bonds are capped even lower, at 2 percent above the Federal discount rate. As a result of this, Arkansas State and local governments, our public universities and utilities—in search of financing for construction and improvement projects—are severely hampered by the current limit, as are our Arkansas consumers, who are facing a lack of credit availability, as is everyone in this great country during this economic crisis.

Practically speaking, the current interest rate limit—the top rate that is legally allowable in Arkansas on all nonbank lending—is no higher than 5½ percent. Not surprisingly, this low rate of interest has contributed to bond investors looking to other States across the country where their yields will be much higher, as well as credit rationing by nonbank lenders that have been forced to restrict funds to consumers—particularly now, when capital is so hard to come by anywhere else.

The biggest frustration of all for people in my State is that the Federal Government has continued to make this problem worse and worse by lowering the Federal rate. This was done in an effort to improve the economy, and we certainly understand that in Arkansas. The Fed took those measures in order to try to improve the economy overall. But since we are the only State that has that unusually low rate that is tied to the Fed, we are actually suffering tremendously from what is occurring. As I said, we do appreciate the Federal Reserve's actions in these recent months to continue lowering the Federal discount rate where necessary to combat the economic crisis and stave off a further decline in our financial markets, but the lowering of that rate has only exacerbated the economic challenges faced in our State, and in our State alone, for that reason.

Additionally, many of the tools put into place in the American Recovery and Reinvestment Act—the stimulus package that we offered earlier this year to jump-start our economy, such as the Recovery Zone bonds and the Build America bonds—are not available in our State because of our lack of competitiveness in the bond market, due to those abnormally low interest rates that are tied to the Fed. As stated in the recent Arkansas Democrat-Gazette article on this issue:

> The bond market has responded to the Build America program. Since its introduction, investors have purchased $8 billion in offerings, providing the bulk of activity in the taxable-bond sector. Arkansas is not in a position to take part.

This is an issue that impacts our State of Arkansas alone. We understand that, and Arkansas does intend to fix that problem. However, we can't do so immediately because this archaic clause in the Arkansas law must be rectified through a statewide ballot initiative. Therefore, a proposal to permanently modify this outdated law will be voted on by the people of Arkansas, but not until the next statewide ballot in 2010. Unfortunately, the economic challenges our Nation now faces are magnified in our State and immediate emergency intervention is

essential; otherwise, our State's recovery will lag behind due to a lack of capital in our State.

There is precedent for Federal action on this issue, as the Congress enacted an Arkansas-specific provision to exclude Arkansas bank lenders from this exact interest rate limit in 1999. The second-degree amendment we are offering today is even more limited in scope, allowing for a temporary relaxation of the current interest rate limit to a more reasonable level of no more than 17 percent until the State ballot initiative is considered.

This is temporary, it is an emergency for Arkansas, and it is only in regard to the State of Arkansas. This is merely a temporary bridge to get us through this immediate crisis. We are all part of this economic crisis in this great country, and we are working hard together to pull ourselves out of this ditch and to get the economy back on track. I would hate to think that my State, and my State alone, was the only one that could not access the stimulus dollars to help our universities, our airport authorities, our municipalities, and others to access some of those dollars, to help create jobs in our State, and to put people who may have lost jobs back to work. We want to be sure we have the resources as well in order to be a healthy part of reviving the economy in this great country.

This is a matter of great urgency for our State. This is a matter with broad consensus in our State. We have worked as an entire delegation and in a bipartisan way. We have the State government, our Governor, and others who have been working with us—just for Arkansas, because it is Arkansas specific—to figure out a way to provide that temporary bridge, that temporary assistance we need. Because if we wait until that ballot initiative, the stimulus package will be over and we will have missed that opportunity. So this is a matter we have been working on, as I said, in a bipartisan way to try to solve.

We hope we can count on the support of our colleagues when this amendment comes up later on today or whenever we vote on it. But I do plead with my colleagues, this is an Arkansas-specific issue. It is one that is detrimental to our State. We have an opportunity to help the people of Arkansas, the communities of Arkansas, the student loan authority, which can no longer issue new student loans because of that bonding authority and the cap that exists there. The problems that exist for us are monumental, and we want to ensure that over the next 18 months we too can be a part of reviving the economy of this great country.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. LINCOLN. Mr. President, I ask unanimous consent to have Senator PRYOR added as a cosponsor to my second-degree amendment.

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

Mrs. LINCOLN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, since there is some time, I ask unanimous consent that I be acknowledged as in morning business for whatever time I shall consume.

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

GUANTANAMO BAY

Mr. INHOFE. Mr. President, there are several things toward the end of the week that I was wanting to elaborate a little bit on. They are kind of unrelated subjects, but we do not get this opportunity very often.

The whole idea of Guantanamo Bay is something that I know a lot of people have talked about. I was very proud at the inauguration when our new President, President Obama, gave a lot of statements that were, I thought, logical, and, frankly, a speech that I could very well have made—not as eloquently as he but from a content perspective.

He said, in relationship to the problem of Gitmo, or Guantanamo Bay, that, yes, we want to close that. However, we first must figure out what we are going to do with the detainees, recognizing that there are 245 detainees, recognizing further that there will be more as there is an escalation in activity in Afghanistan and that there is no place else to put these people.

I felt pretty satisfied at that time that this great American resource we have called Guantanamo Bay is something we need to keep. It is one of the few good deals the Government has. We have had it since 1903. It is a resource unlike anything else, not only in our holdings but anyplace in the world. It is a place where we have actually built a courtroom that will handle tribunals, that will handle cases with rules of evidence that would fit tribunals as opposed to our court system. I felt pretty comfortable knowing there is nothing that can be done with the 245 detainees. Many are very dangerous terrorists.

Since that time, he has changed his position. Now he is saying we will close it regardless. He has already closed the courtroom. This facility took 12 months to build. It cost $12 million. There is nothing else quite like it. If we are going to ever adjudicate these individuals, bring them to trial, we have to put them someplace. One of the alternatives would be our court system. Obviously, that is not a good idea. Most thinking people realize it is not a good idea because, the rules of evidence being different from what they are in a normal criminal case, most likely we would not get convictions. What happens when you don't get convictions? You turn people loose. If there is anything we don't want, it is terrorists being turned loose. The politics of that is such that people who want to close Guantanamo Bay are backing away from that issue, but they are still talking about closing it.

I have had occasion to be down there several times. The last time I was there, I used a new technology that I didn't understand too well: YouTube. I did a program down there from Guantanamo. I commented at that time: Here we are with about six levels of security for six levels of detainees. There is no place else like it where we can do something like this.

In terms of how they are treated, I have had them say, with a translator, that it is probably the best food they have ever had in their lives. There is one medical practitioner—in most cases, a doctor—for each two detainees. Where else will you find that? There are procedures that are offered to the detainees that they would never have offered anywhere else. For instance, when they offered a colonoscopy, which was described to the detainees in terms of what it entailed, they decided they didn't want it. Nonetheless, these were things that were offered in the way of health care.

In the case of torture, there has never been a documented case of waterboarding or any severe torture taking place there. I can remember the week after 9/11, when we had immediately a few people in there. I went down and found that our own troops who were stationed down there were not treated as well as the detainees.

Even if that were not true, there is no other place that we can put them. There has been a proposal that there are some 17 detention installations in the United States that would be suitable for these people. One of them happens to be Fort Sill, which happens to be in Oklahoma. I went to Fort Sill and talked to a young lady there who is a sergeant major. This is in Lawton, OK. I talked to her about this. She said: Senator, I have to ask you a question. Why is it that everyone is so concerned about closing Guantanamo Bay? This facility here is not nearly as suitable for detainees.

Then she went on to explain why this separation of people and of classes of security problems. She said: Besides that, I spent 2 years—this is Sergeant Major Carter, stationed at Fort Sill—at Guantanamo Bay. That facility is better than any Federal facility we have.

Why is it we are so bent, just because of some ugly rumors that are not true about treatment of detainees, on closing a resource we have had and we are still paying $4,000 a year for, as we have been ever since 1903? You don't get many bargains like that in government. Anyway, they seem to be concerned about doing that.

I believe public pressure is going to come around on our side and common sense will prevail and we will not close that resource. We will need it in the future. We need it today. We have needed it in the past. It has served us well.

As this moves along, I hope the public knows there are several of us who are going to make sure we do not do anything that is going to allow some of these detainees to be floating around in the continental United States. If we are inclined to do this program where we put them in some 17 installations, we will have 17 magnets for terrorism in the United States. That is not going to happen.

THE FIRST ONE HUNDRED DAYS

I also wish to talk about the striking similarities between what is happening today and what happened back in 1993.

The first 100 days of President Obama's administration will be remembered for its unprecedented level of new Federal spending—no question about that; no Democrat or Republican can deny that—and the return to big government. This, together with his advocacy of far-left, liberal causes—everything from abortion rights, to gun control, to universal health care—will put him on a track to repeat the performance of 1993, when a very attractive, young Bill Clinton entered the Oval Office under the banner of change. After Americans realized that his so-called change was simply an extremely leftwing position, the American people revolted and put Republicans back in charge of Congress. If President Obama continues down this path, I would not be surprised to see that happen again in 2010.

Nothing is more indicative of the stark contrast between conservatives and liberals than the massive Government spending spree now underway in Washington. In his first year in office, Bill Clinton put forward what was then the largest budget to date in our history. It was $1.5 trillion. It included domestic spending of some $123 billion.

Now in this 100th day of President Obama's administration, the Senate is poised to vote on what would become the largest budget to date. This budget, which highlights his priorities, is the most radical and partisan budget we have ever seen. It includes $4.4 trillion in additional deficits and $3.5 trillion in total spending. Let's compare that to 1993. I was down on the floor complaining about a $1.5 trillion budget. This is a $3.5 trillion budget.

When I go back to Oklahoma, sometimes I come to the conclusion that there aren't any normal people in Washington, because they ask the question: Senator, how can we afford all this spending when we had a stimulus bill of $789 billion, increasing debt by $1.8 trillion in the first year, and a $3.5 trillion budget? Where is the money going to come from?

Here I am, the senior Senator from Oklahoma, and I can't answer the question. We do have choices. We can borrow. We can print it. It will have to be a combination of the above. We know all of the very damaging effects: $1 trillion in taxes on individuals and businesses, a $634 billion downpayment for government-run health insurance. There is another similarity. Remember, in 1993 it was called Hillary health care. The concept was the Government can run a health care system better than people can. I always invite people who believe that to go spend some time in some of the hospitals up north; the Mayo Clinic and some others come to mind. See the number of people who are there who came over from Canada because they couldn't get treatment. Maybe their age was right above the federal guideline for a particular type of procedure, and they could no longer do it. Again, the similarities are so similar, 1993 and what is happening today. Then, of course, we had the Wall Street bailout and all of that.

I am very concerned about the direction this administration has proposed to take us. Anyone who works hard, plays by the rules, pays taxes, drives a car, turns on the lights, saves, invests, donates to charity, or plans to be successful should also be concerned.

Defense cuts—I probably am more concerned about this than most Members. I am the second ranking member of the Armed Services Committee. I have watched what is going on. To me, it is deplorable.

I happened to be in Afghanistan when Secretary Gates came out with Obama's defense cuts. They tried to claim they are not defense cuts. They are. It is just that they are talking about the DOD appropriations bill versus all the other funding sources that have been used before.

The best evidence that they are cuts is what has happened to our platforms. Right now, the F–22 is the only platform we have that is fifth-generation maturity. This is something he is stopping right now. We were originally supposed to have 750 F–22s. Now we will stop at 187. At the same time, you have China with its J–12, Russia with its SU series, a fifth-generation airplane. That is going to put us in a position where it will hurt and hurt bad.

The same thing is true with the Future Combat Systems. We have been working on that for 8 years now since Shinseki helped to start it. It is the first transition in ground capability in at least 50 years. This is something we have been working on so that we don't send our kids into battle against countries that might have a better artillery piece and better equipment than we. He axed that program.

How long has it been since we started working with the Parliament of Poland and the Czech Republic to get them to let us put a radar system in the Czech Republic and interceptor capability in Poland so that when Iran gets the capability of sending a nuclear missile over to western Europe or the eastern United States, we would have the ability to shoot it down? It didn't happen. The Parliaments that had to be politically pretty strong to agree to do that. Now they are sitting back and finding out that they are talking about axing that program too.

The airborne laser is the closest thing we have to knocking down a missile in the boost phase. We were coming along with that program. They axed that program too.

I am very concerned about what happens and what has happened in this budget to our capability of defending ourselves. Then I go back to 1993. That is exactly what happened back then. If we look at the 8 years of the Clinton administration, we cut military spending from what would be just a straight line by $412 billion in that period. Of course, we ended up cutting our military by about 40 percent over that period.

The bottom line is, all these programs were cut. I happened to be in Afghanistan when that happened. We did a report from over there. We could see the Bradleys driving by and the helicopters taking off, the bad weather, soldiers coming back from patrols and turning on the tube and finding out President Obama is going to gut the military. It is totally unacceptable. But that is the same thing that happened in 1993. It is déjà vu all over again.

Gun control is the same. We see now that they are going to try to get us to sign on to a treaty that is called CIFTA, a treaty in the Western Hemisphere where we will all get together and we will allow Central America and Mexico and South America and Canada to determine what gun manufacturers can do. It is the first major step to gun control, in violation of second amendment rights. People care about that. It is exactly what happened with Bill Clinton in 1993.

Energy taxes—back when Bill Clinton was doing it, it was called the Btu tax. That stands for British thermal unit. It was a massive tax increase on energy and very similar to what they are trying to do right now—which, incidentally, I have no doubt we will stop them from being able to do—the cap-and-trade tax. One thing about the cap-and-trade tax, that is something that is not just a one-shot deal like the stimulus bill. That is every year. It would be somewhere around $350 billion a year in taxes on the American people, a regressive tax because it is a tax on energy. People with lower incomes spend a larger percentage of their expendable income on that kind of energy than rich people do.

We are not going to let that happen. I tell all my friends, we have been fighting that battle now for 8 years,

and it is over. We are not going to let that happen in America. But that is what Bill Clinton tried to do in 1993. It is the same thing all over again.

We went through the same thing on abortion. I think personally there is no mission more important than standing up for the sanctity of human life. Here again, President Obama, like President Clinton, quickly moved to appease pro-abortion advocates.

Just a few days ago, the Senate confirmed Kathleen Sebelius for Secretary of Health and Human Services. As Governor of Kansas since 2002, she has a clear record of supporting abortion and policies that I believe impact the health and safety of women and parental rights. Again, it is abortion. Either you are for it or against it. But this is one of the strong pro-abortion positions in 1993 that now we are getting again out of this administration.

So when you look at this, I cannot help but think that all the signs are there, that we are seeing the same thing now that we saw back in 1993. I believe we are going to be positioned to keep a lot of these things from happening, No. 1, and No. 2, let's remember what happened in 1993. Young, attractive Bill Clinton went in as President of the United States, and he had the House and he had the Senate, and he had it all just as President Obama has it all. He has the House and the Senate. Therefore, it is not someone else's fault for all these programs. Consequently, we had a major turnover in the 1994 election. Republicans took over the House and the Senate. So I just warn my liberal friends from the other side of the aisle, be real careful. Watch what you are doing because it could very well happen again.

EPA'S ENDANGERMENT FINDING

Mr. President, I do have something that is a little heavier lifting subject. I am the ranking member of the Environment and Public Works Committee. When the Republicans were in the majority, I was chairman of it.

Something is happening right now, and something happened Tuesday morning. I want to make sure everybody understands, as this week is coming to an end, that on April 17, the administration set in motion a ticking timebomb with its release of a proposed endangerment finding for carbon dioxide and five other greenhouse gases. This proposal finds—this, incidentally, is what all the scientists do not agree with—this proposal finds that carbon dioxide is a dangerous pollutant that threatens the public health and welfare and therefore must be regulated under the Clean Air Act.

This is interesting because they first tried to pass cap and trade. They know there are not the votes for it. There are in the House. Speaker PELOSI pretty much gets anything she wants through. It is a simple majority vote over there. Over here, it would take 60 votes to pass that massive tax increase, and we are not going to do it because they do not have more than 34, maybe 35 votes, and it takes 60 votes. But, nonetheless, since they cannot do it, they decided to do it under the Clean Air Act and do it through regulation so it could be done from the White House. This so-called endangerment finding sets the clock ticking on a vast array of regulations and taxes, with little or no political debate or congressional control.

On May 12, we learned of a White House document. This is significant. We did not know it was there. I want to credit our committee, the Environment and Public Works Committee—the minority side—for finding this document. It is a White House document marked ''privileged and confidential.'' It was buried deep within the docket of the proposed rule. It outlines some of the very same concerns shared by me and many of my colleagues, including Senator BARRASSO. I could not be here for that Tuesday morning meeting, and he was good enough to take this memo and expose it and did an excellent job of it.

Keep in mind, we are talking about their proposal for new taxes, new regulations—all these things they want to go through with because they cannot legislatively pass a cap-and-trade—or cap-and-tax, as some call it—proposal.

The document we found—allegedly a compilation of concerns from unnamed officials within the White House, or the administration, as part of an interagency review of the proposed regulation—raises some questions, very serious criticisms of the endangerment proposal. Chief among them are questions raised about the link between the EPA's scientific argument for endangerment and its political summary.

I am going to quote from it. I have three quotes. Keep in mind, this came from the administration. This report says:

> The finding rests heavily on the precautionary principle, but the amount of acknowledged lack of understanding about basic facts surrounding greenhouse gases seems to stretch the precautionary principle to providing for regulation in the face of unprecedented uncertainty.

In other words, what they are saying there is that the science is not there; we do not know yet; we know there are a lot of problems with this, and we should not be rushing into it. This came from the White House. I am glad we found it.

Here is a further quote. Additionally, it says:

> There is a concern that EPA is making a finding based on ''harm'' from substances that have no demonstrated direct health effects, such as respiratory or toxic effects, and that available scientific data that purports to conclusively establish the nature and the extent of the adverse public health and welfare effects are almost exclusively from non-EPA sources.

Again, this is not me talking, this is a quote from the White House in a buried document we fortunately—but surprisingly—did find.

You can ask: What source is the EPA relying on if it is going to go through all this? That source is the U.N.'s Intergovernmental Panel on Climate Change. This is where it all started. It was the United Nations that started this whole issue of greenhouse gases, of CO_2, anthropogenic gases, and methane causing global warming. When you look at their ''Fourth Assessment Report'', which, as I have documented before many times in speeches on this Senate floor, is a political and not a science-based body, it has no accountability here in the United States.

You keep hearing people say: What about the NAS, the National Academy of Sciences? What about them? They are scientists.

The reports they give are not from the NAS, they are from the political review or the summary for policymakers, which is a political document, not another document.

In addition, this White House memo also warns of a cascade of unintended regulatory consequences if the endangerment finding is finalized. It states—and again, I am quoting from this report:

> Making the decision to regulate CO_2 under the Clean Air Act—

That is what they want to do, regulate CO_2 under the Clean Air Act—

> for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small business and small communities.

This report talks about the small businesses, the small communities, churches, other groups that are going to be adversely affected by this. Again, this is a document that came out of the White House.

Now, for one thing, I am glad to know we are not alone with our concerns and that several in the Obama administration share views similar to ours on the endangerment finding. I am hopeful more will come forward.

So what was the administration's official response to the release of this memo? Well, it depended on whom you asked. One source in the Obama administration chose to again blame it on the Bush administration, stating it was written by a holdover appointed by George W. Bush. However, earlier in the day, Peter Orszag, who heads the White House budget office, where the memo apparently came from, stated that the quotations circulating in the press are from a document in which the OMB simply ''collated and collected disparate comments from various agencies during the interagency review process of the proposed finding. These collected comments were not necessarily internally consistent, since they came from multiple sources, and they do not necessarily represent the views of either OMB or the Administration.'' Well, it is fine to say this, but that is where it came from. It came from the administration. It is very fortunate we found it.

It begs the question: Does this document reflect one rogue leftover Bush appointee, who, based on followup news

reports, actually appears to be a Democrat or does it reflect a more systematic summary of comments from various agencies that have serious concerns with the proposed finding, as Orszag suggested? I am hoping someone from the administration will come forth with a consistent response.

In either case, I welcome the comments as an open and honest discussion of the potential costs, benefits, and legal justifications for such a finding.

Regardless of the Supreme Court decision, the EPA has the discretion to carefully weight the science and the causes and effects in its determination of endangerment, and, despite recent claims by administration officials, it is under no court order to find in the affirmative that such greenhouse gases endanger public health or welfare or cause or contribute to air pollution.

If we are going to have a debate on this issue, let's have it here in Congress, where the American people deserve an open and honest discussion about the costs and alleged benefits, about the effectiveness of such policies and what it will mean to the consumers who ultimately pay the bill. As I said before, it is going to be the poorer Americans who pay the larger percentage of their incomes who are going to be punished.

By the way, we had the debate here. In the House, they have never had the debate because it has never come up as an issue. Here we had the debate during the ratification debate on the Kyoto treaty. And we had the McCain-Lieberman bill, the Warner-Lieberman bill, the Boxer—there is another bill that came up just in the last year. So we have had the debate, a full and open debate, and we are going to have to debate this issue because there is an effort to try to do through regulation what they cannot do through open debate in the process on the floor.

The administration, and this EPA in particular, has claimed they will usher in a new era of transparency. In April, Administrator Jackson issued a sweeping memo to all EPA employees committing the agency to an unprecedented level of transparency. I applaud her for it. She told me this in my office. We also found that she made this statement in a private memo to Members. So she is being very honest in what her effort is. I have a feeling a lot of this stuff is happening, and she is not even aware of it.

She says—and this is a quote; this is beautiful:

> The success of our environmental efforts depends on earning and maintaining the trust of the public we serve. The American people will not trust us to protect their health or their environment if they do not trust us to be transparent and inclusive in our decision-making. To earn this trust, we must conduct business with the public openly and fairly.

Again, this is Lisa Jackson, the new Administrator of the EPA. I applaud her for saying this.

> This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions.

She went on to say at her confirmation hearing—not only did she reaffirm this statement, but she said she would be responsive to us on the minority side, the same as she would be to the majority, and I believe that.

Certainly, the allegations in this White House memo make one question whether the EPA is open and accessible to all points of view. For one thing, it was marked ''privileged and confidential,'' which tells me that perhaps they knew about it, but then they did not want to use it and they did not want people to find out about it. Nonetheless, the document speaks for itself.

My colleagues may criticize the Bush administration for how it handled the endangerment finding, but at least they did not try to bury or hide these types of comments when it proposed its advance notice of proposed rulemaking last summer. I know a lot of this sounds a little confusing. This is a process you go through, an advance notice of proposed rulemaking. In fact, the previous administration; that is, the Bush administration, went so far as to lay all of these comments out in public view so all sides could be represented. If this latest action is any indication of how the EPA has begun to operate, then the American public should have serious reason to be concerned.

On this CO_2 endangerment issue—potentially the largest and most sweeping regulatory effort ever to be proposed—transparency should be a cornerstone of every agency action. Opinions from all sides, pro and con—and certainly from all other agencies—should be weighed equally and fairly and, just as important, openly, in full view of the American people. The American people deserve to know all sides, all costs, and all benefits. This thing is so costly, and with the questionable benefits, this is that much more important.

Because of these issues, I am hopeful the Administrator will commit to a determination on endangerment that would be based on the record of the scientific data and empirical evidence rather than political or other nonscientific considerations. It is of the utmost importance that regulatory matters of this scope and magnitude be based on the most objective, balanced scientific and empirical data.

While I am still hopeful that ultimately Congress or the agency will decide to take this option off the table, a full on-the-record examination during any endangerment rulemaking should be a minimum requirement of transparency.

But the administration has essentially politicized the issue by presenting policymakers with a false choice. The choice is to use an outdated, ill-equipped, and economically disastrous option under the Clean Air Act or pick another bad option—cap and trade—that commits us to requirements for unaffordable technology and would certainly be the largest consistent annual tax increase in the history of America. This isn't going to happen.

I would repeat we are fortunate in that we have had this debate, and each time we have the debate, there are more and more people who come down and say: Well, I didn't know it was going to cost that much money. Back in the original Kyoto days, it appeared that a majority of the people, in fact, in the Senate would support that type of an approach.

By the way, I have to say this: The Kyoto treaty was one thing. That is a treaty that affects the whole world, a lot of developed nations and some undeveloped nations. It was something you signed onto and everyone signs onto and everyone agrees to. Since that didn't happen—and even if you are one of those individuals who believes that anthropogenic gases, CO_2, and methane are causing global warming—if you believe it, which isn't true, but if you did believe it—then does it make sense for us to pass something unilaterally in the Senate, making us less competitive than the rest of the world? What is going to happen to our manufacturing base? What is left of it is going to end up in places such as China, India, and Mexico, where they don't have these emission requirements. What is going to happen then? There will be a net increase in CO_2.

Back to the memo, and I will conclude with this. I have to repeat what the memo says. This was a memo that was advice to the process from the White House.

> The finding rests heavily on the precautionary principle, but the amount of acknowledged lack of understanding about basic facts surrounding greenhouse gases would seem to stretch the precautionary principle to providing for regulation in the face of unprecedented uncertainty.

In other words, it is uncertain.

Further, it states:

> There is a concern that EPA is making a finding based on harm from substances that have no demonstrated direct health effects such as respiratory or toxic effects, and that available scientific data that purports to conclusively establish the nature and extent of the adverse public health and welfare effects are almost exclusively from non-EPA sources.

That is an admission.

Finally:

> Making the decision—

Which I hope we will not make the decision to do, but we will oppose that decision—

> to regulate CO_2 under the Clean Air Act for the first time is likely to have serious economic consequences for regulated entities throughout the United States economy, including small businesses and small communities.

In other words, nobody wins. Nobody wins.

So with that, I would say there is this effort that what they cannot do

legislatively they want to do through regulations, and we are not going to allow that to happen.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague from Oklahoma for yielding. There are two issues I wish to address. The first will be this bill, in particular, the gift card title in the Credit Card Act. Secondly, I wish to speak a little bit about the NTSB hearings on flight 3407 which, as my colleagues know, crashed outside Buffalo and Clarence with a tragic result.

First, before I get into the substance on gift cards, I wish to commend Senator DODD, Senator SHELBY, and all the members of the Banking Committee for doing an excellent job on this bill. The bottom line is we need good, strong, tough regulation on credit cards. The days when disclosure was enough are over. I happened to believe that once and worked hard for disclosure measures. There is something called the ''Schumer box'' that is on all credit card solicitations applications because it puts in large letters the interest rates. Back in the old days, that worked. Every credit card, even though interest rates were 6, 7, 8 percent, was at 19.8 percent, but you couldn't find that out. So when people signed up for a credit card, they had no idea what interest rate they were paying. Once the box got on the solicitations, on the applications, interest rates came down. Good old-fashioned American competition began to work.

But in recent years—maybe they just got smarter or maybe they got more desperate for profits—credit card companies have found a way around disclosure. A person believes they are signing up for one rate, but then in the fine print, basically, if you wake up out of bed, the rate goes higher—much higher. We have gotten letters and heard stories from people who were on a 7-percent fixed rate and it went up to 23 percent overnight.

If it is on a future balance, that is fine. You can get another credit card. But it isn't. These rates go up on existing balances. Let's say you have a $4,000 balance, which is the average for American families with credit cards. Calculate it. You go from 7 percent a month on $4,000 to 23 percent on $4,000, and that is a difference of hundreds of dollars a month. These days, with the economy the way it is, with families struggling to make ends meet, a couple hundred dollars a month is the difference between being able to survive and perhaps going bankrupt; being able to survive and not being able to provide some of the basic necessities.

The legislation before us stops all those practices. The frustration, I must say, on both sides of the aisle, with the practices of the credit card industry is mounting. I would say to those in the credit card industry: Unless you get your act together, there may be other amendments and bills you will not find to your liking. It is about time to be responsible. I understand the banking industry is in tough times, and we all hope they will recover, but to recover by taking advantage of consumers is unfair, unwise, wrong, and we aim to stop it with this legislation.

The provision I wish to address specifically is one that I worked on with the Presiding Officer. We are both sponsors. The Senator from Colorado has done great work on this legislation, and I wish to thank him for his assistance as we move it forward. I also wish to thank, on this particular issue, both Senator DODD and Senator SHELBY, who walked the extra mile. I think it shows that if you work hard at legislating, and you are willing to compromise, it pays off. The original bill the Presiding Officer and I put in was tougher than the proposal here, but the proposal here is good and strong. It makes a huge difference between what exists now—which is virtually nothing—and what will become law, and it is something I think everyone can be proud of.

I also wish to thank those in the consumer industry. As do I, as well as the Presiding Officer, they wanted a stronger bill, but they understood that when you legislate, you can't let the perfect be the enemy of the good. Getting something strong is better than getting nothing, even if you would have preferred something stronger.

Well, we are all familiar with gift cards. In many ways, they are the perfect present. You get the opportunity to choose whatever you want the most. When you get a gift card, it is great. You can think of 15 different things you want and decide which one you want to buy. You can go to the store, pick out what you want, and get it without spending a dime of your own money.

We have all opened that gift from Aunt Edna and wished she had spent the money on a gift card instead of that sweater you are never going to wear. I, for one, am not very good at picking out gifts. So gift cards are a boon to me, not only as a recipient but as somebody who gives gifts because I can buy the gift card, and I can breathe a sigh of relief that my family member or friend will have something they want instead of something I have chosen that they might not want at all, which often happens when I choose gifts. I guess I am a little like Aunt Edna.

Gift cards are a very good thing, and we don't want to snuff them out or limit their extent.

But what most people do not realize is that these gift cards often come with hidden fees and short expiration dates. After a period of time that can be as short as 6 months, the issuer begins charging value off the cards, reducing their value and depriving recipients of their gifts. That means if your mom or aunt or friend did their holiday shopping early, by the time April or May rolled around, you could be slowly but surely giving your gift card back to the bank piece by piece by piece.

Consumers usually pay a high fee when you buy the card, sometimes as much as 20 percent of the value. Well, on top of that, the recipient of the cards faces other charges such as monthly maintenance fees, dormancy fees or even a separate fee for each time the card is used. That is not fair. It is not fair when you get a gift card, say, at Christmastime and you say: I will save it until June to buy something I can use in the summer, and you go to the store and the gift card doesn't have the whole value on the card. That is not right. It is not fair. Frankly, it is not what the giver signed up for when he or she bought that card and gave it to you in a gesture of friendship or love.

For years, issuers of these cards have used fees to make hefty profits, largely on the backs of consumers, but with this legislation we are going to ensure that recipients are protected and can use their cards free of these duplicitous fees for a reasonable period of time.

First, the bill ensures that no fee can be charged unless there is no activity on the card for 12 consecutive months from the date on which the last charge is imposed. Let me explain. If you purchased the card the week before Christmas and give it to your child, parent, spouse on Christmas Day, for a whole year, until next Christmas, that card doesn't decline in value one penny. That is a very good thing and very much needed. During that year, if you use the card once but don't use the whole value—let's say it is a $50 card and you buy something for $22—the 12-month period starts again so you have plenty of time to use the card.

Second, the bill will require the Federal Reserve to determine a fair amount for the fees and set a minimum balance above which fees can't be charged. So the issuers aren't charging people exorbitant rates to use their cards and aren't taking up the entire value of the cards with these fees. If, for instance, the gift card is for $50 and they charge you $5 a month, within 10 months, the gift card is useless. It is my view the fee will not be more than $1 or $1.50 when the regulator sets it, and it will give the gift card a much longer life. Of course, we are leaving it up to the Federal Reserve.

We are also letting them set a minimum balance. My guess is it will be $15 or so, above which the fee doesn't bite in, so the gift card will last a lot longer.

Fourth, the bill ensures that gift cards have expiration dates of at least 5 years from the time they are issued. It is simply unfair to cancel the gift totally after 6 months or even a year. So now the gift card stays in existence for 5 years.

I believe this legislation makes gift cards fairer, better, and even happier gifts to give during the holiday season, for birthdays or an anniversary. I encourage people to use the gift card.

One other point I think is very important. This legislation, for the first time, will make sure that so-called open loop cards—the kind which can be used anywhere and that you get as a holiday present—will be regulated at all. There has been no regulation before. Consumers Union, U.S. PIRG, the National Consumer Law Center, and the Consumer Federation of America all support the actions we are taking on this issue. We have heard from one of the biggest gift card issuers that they, too, are comfortable with this bill because we are making commonsense changes to this business to ensure that consumers can get a fair deal and that issuers can continue to offer these valuable products. The bottom line: You get a gift card, you know it is going to have its full value for at least a year, with no expiration date, no monthly fee that takes a chunk off the gift card. It means what you are giving the recipient is getting, nothing less.

At the end of the day, the reason this bill has been so important to me and to the Senator from Colorado, who worked so hard on it with me and others, is we want to protect consumers who purchase these products as gifts for their friends and loved ones. Consumers who purchase or receive a $50 gift card should get $50 in value without having to pay excessive fees.

CONTINENTAL CONNECTION FLIGHT 3407

Mr. President, I want to speak a little bit about the conclusion of the NTSB hearings that occurred this week in reference to Continental Connection Flight 3407.

We all know what happened on that flight. On February 12, 2009, the lives of family members, many of whom live in western New York, changed in a tragic and dramatic way when they lost their loved ones on a Buffalo-bound flight from Newark Airport.

I met with some of these family members on Tuesday—nine family members who lost loved ones on that flight. First, I have to express my respect and admiration for these family members. It was a little less than 3 months ago that they lost a husband, a wife, a child, a parent, or a fiance, and there is a huge hole in their hearts. Yet they were down in Washington making sure that a thorough investigation was done to determine why flight 3407 crashed, and then to continue working to see that corrective measures were taken on all other flights, so that what befell their loved ones would not happen to others. It was an act of bravery, courage, strength, fortitude, generosity, and compassion. The people in that room—and we had some heartfelt moments together—were saintly. They were trying to light a candle amidst the darkness that enveloped their lives. I felt for them when we met, as I feel for them today.

The crash of flight 3407 in Clarence, NY, claimed 50 lives and serves as a tragic reminder that our Nation's aviation industry is not immune to tragic incidents.

The 3-day-long hearings at NTSB have revealed some very disturbing suggestions into what may have caused the crash of the Bombardier Dash 8 Q400 airplane.

First, I am troubled by the reports that the Colgan pilots of the Dash 8 were not adequately trained in the operation of the ''stick-pusher''—the instrument installed in aircraft like the Dash 8 that prevents an aircraft from stalling. The stick-pusher is not demonstrated in pilot flight training simulators, and experts believe that the pilots are missing out on important hands-on training.

Suffice it to say that when the flight flew over Clarence, just before it crashed, the pilots may not have been adequately trained to deal with what was happening.

Colgan maintains that the FAA does not require this kind of simulator training. Today, I have written to Secretary Ray LaHood and asked that he reevaluate FAA's approval of airline training curricula.

We have also learned that the pilots of flight 3407 were not properly rested before their flights. It is obvious why. The young copilot of the flight lived in a suburb of Seattle, and her salary was $16,000 a year. She flew across country, tired, sleeping in an empty pilot seat, if she could—no stop, no rest, and then boarded the flight to Newark that she was copilot of on its way to Buffalo. It seems that it may be—I hope not, but it seems like it—that some commuter airlines both underpay and overwork their pilots to save costs. There is an unfortunate possibility that they could put safety second, with cost cutting first. That just cannot be. That has to change.

The second thing I am doing is urging the FAA not only to look at the number of hours that a pilot can fly—they have regulations for that—but the conditions which a pilot who begins a flight has endured previous to the flight, so that they are alert and rested as their tenure for that day or that few days begins.

The airline industry is evolving. What we are seeing is more and more smaller commuter airlines, and the FAA is not keeping up. The FAA needs to crack down on issues of pilot rest, compensation, and training, especially with these young airlines that seem to be prioritizing issues of saving money. They should be making priority No. 1 the issue of safety.

For the last 8 years, the FAA has had ineffective leadership with one goal: to cut costs. The head of the FAA—I met her and had arguments with her—seemed to take direction almost all the time from the OMB. All of us believe we should cut costs in this Government—I certainly do—but not when it comes to safety. I believe that the FAA, which requires the small commuter airlines to observe the same regulations as the larger airlines, hasn't kept up enforcing the rules with so many of the commuter airlines out there.

The crash investigation also initially suggested that icing conditions may have affected the aircraft. A bright light was shed on the fact that the NTSB and the FAA have differing recommendations as to how a pilot should handle an icing situation, and that the NTSB first asked the FAA to adopt the NTSB's recommendations 12 years ago—to no avail.

For this reason, I, along with my colleagues Senator ROCKEFELLER and Senator DORGAN, called for an official GAO investigation into what specific roles the NTSB and the FAA should be playing in aircraft icing prevention, and why such a lag exists between the time the NTSB makes a recommendation and the FAA formally adopts it. It seems to me—these are just my observations—that the NTSB does put safety first, and I sometimes wonder if the FAA is always doing that.

The GAO has informed us that they are in the process of forming an investigatory team for our request and will begin to pursue answers soon.

In conclusion, I cannot say enough how humbled I am by the work of all of flight 3407's family members. It is a tribute to their loved ones' lives that they are in Washington to advocate for aviation safety. I assured them, as we talked and prayed together, that I would do everything I could to make sure we get to the bottom of what happened on flight 3407, and then take whatever corrective action needs to be taken to prevent future flights such as 3407 from crashing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AUNG SAN SUU KYI

Mr. MCCAIN. Mr. President, I briefly rise on the floor today to discuss the latest outrage in the long-suffering country of Burma. I speak of the imprisonment of Nobel Peace Prize laureate Aung San Suu Kyi.

Aung San Suu Kyi is the leader of Burma's National League for Democracy, the party that won the country's 1990 elections decisively—elections that were quickly nullified by the Burmese military. She has been imprisoned by the thuggish military junta that runs that country. Ms. Suu Kyi has spent the majority of the past two decades under house arrest. Now the Government has moved this remarkable woman to Insein Prison compound and charged her with violating the terms of her house arrest, which was illegal to start with. She faces a potential sentence of 5 years in jail. Two other NLD members face similar charges.

While reports remain somewhat opaque, these charges appear to stem from the uninvited visit of a United States individual who entered Ms. Suu Kyi's home compound after swimming across a nearby lake. He then reportedly stayed on her compound for 2 days, despite requests to leave. Based on this occurrence, the regime appears now to allege that Ms. Suu Kyi has broken the law by not requesting permission in advance to have a visitor.

As a penalty, then, for an uninvited person showing up on her doorstep—while she remained imprisoned inside—the Burmese regime proposes to sentence her for up to 5 years in jail.

All of this represents, of course, the latest pretext dreamt up by the Burmese junta in order to prevent the legitimately elected leader of the country from interfering in its plans for dominance. The generals who run the country are planning ''elections'' to be held next year, and which they believe will legitimize their illegitimate rule. They seek ways to ensure that Ms. Suu Kyi and other NLD members are not free to participate in these elections, since it is the NLD—and not the military junta—that has the support of the Burmese people. As political prisoners, including Aung San Suu Kyi, fill Burmese jails, the international community should see this process for the sham it represents.

I once had the great honor of meeting Aung San Suu Kyi. She is a woman of astonishing courage and incredible resolve. Her determination in the face of tyranny inspires me and every individual who holds democracy dear. Her resilience in the face of untold sufferings, her courage at the hands of a cruel junta, and her composure despite years of oppression inspire the world.

Because she stands for freedom, this heroic woman has endured attacks, arrests, captivity, and untold sufferings at the hands of the regime. Burma's rulers fear Aung San Suu Kyi because of what she represents: peace, freedom, and justice for all Burmese people. The thugs who run Burma have tried to stifle her voice, but they will never extinguish her moral courage.

The world must now respond to the junta's latest outrage in a way that demonstrates the inevitability of those values she so clearly demonstrates. The work of Aung San Suu Kyi and members of the National League for Democracy must be the world's work. We must continue to press the junta until it is willing to negotiate an irreversible transition to democratic rule. The Burmese people deserve no less. This means renewing the sanctions that will expire this year, and it means vigorous enforcement by our Treasury Department of the targeted financial sanctions in place against regime leaders. It means being perfectly clear that we stand on the side of freedom for the Burmese people and against those who abridge it.

The message of solidarity with the Burmese people should come from all quarters, and that includes their closest neighbors, the ASEAN countries. The United States, European countries, and others have condemned her arrest and call for her immediate release.

I ask unanimous consent to have printed in the RECORD at this time a declaration of the Council of the European Union, and others by the Federation of International Rights, and the International Federation of Human Rights.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF THE PRESIDENCY ON BEHALF OF THE EUROPEAN UNION ON DAW AUNG SAN SUU KYI

The European Union expresses its strong concern following reports on the health of Daw Aung San Suu Kyi, leader of the National League of Democracy and Nobel Peace Prize laureate, and on the recent detention of her physician, Dr Tin Myo Win.

The EU calls on the authorities of Burma/Myanmar to guarantee for Ms Suu Kyi immediate and proper medical care, as well as access for her personal attorney. It furthermore recalls that her house arrest, which has been imposed in clear breach of international norms, will expire this month, and therefore again urgently calls for her unconditional release.

On the sad occasion of the anniversary of Ms Suu Kyi's detention, the EU urges the authorities to halt systematic torture and denial of health care to prisoners and to release all political prisoners.

''The regime's fear of the widespread popularity of Daw Aung San Suu Kyi remains, and they hope to keep her silent and hidden before the 2010 elections. There is widespread anger in Burma over the sham constitution the election is based on, and the only way to bring peace and stability to our country is by genuinely involving Daw Aung San Suu Kyi in the process of national reconciliation. Otherwise, the results could be disastrous'', said Mahkaw Khun Sa, General Secretary of Ethnic Nationalities Council.

Daw Aung San Suu Kyi remains the world's only imprisoned Nobel Peace Prize recipient.

INTERNATIONAL COMMUNITY MUST ENSURE RELEASE OF DAW AUNG SAN SUU KYI AND HER DOCTOR

Seven leading alliances, representing all major ethnic and political forces of Burma's democracy movement, today express deep concern for the security and health of Daw Aung San Suu Kyi and urgently call for her immediate and unconditional release, as well as the release of her doctor Dr. Tin Myo Win.

There is serious concern for the health of Daw Aung San Suu Kyi. She is found with low blood pressure and dehydration and must immediately receive thorough medical attention. Her doctor, Dr. Tin Myo Win, who has been the only person allowed to visit her for monthly check-ups, was detained by authorities on May 7, and his whereabouts is unknown and it is uncertain when he will be released.

Daw Aung San Suu Kyi has been under house arrest for 13 of the past 19 years, and the UN Working Group on Arbitrary Detention recently declared her continual detention illegal. Her detention legally expired on May 24, 2008. While the people of Burma and the world eagerly await for her release as her year-long extension is set to expire, it is of grave concern that the military regime may continue to hold her without any charges.

Besides, they must not use false charges, such as the incident of the intrusion of the foreigner into her home on May 3rd, to try and further incarcerate her and Dr. Tin Myo Win.

''From the beginning of her arrest, authorities declared that they had to detain Daw Aung San Suu Kyi for the reason of 'protective custody' and thus the authorities are the ones responsible for the intrusion,'' said Moe Zaw Oo, Foreign Affairs Secretary, National League for Democracy—Liberated Area.

The seven alliances, representing a broad-based democracy and ethnic forces, urgently call on the United Nations Secretary General, as well as ASEAN and key regional countries to take urgent and firm measures to ensure the immediate and unconditional release of Daw Aung San Suu Kyi and Dr. Tin Myo Win.

''The continual detention and mistreatment of Daw Aung San Suu Kyi and the other 2100 political prisoners in Burma stands against international and regional laws and principles, and there should be no hesitation by the international community to guarantee their direct release,'' said Thin Thin Aung, Presidium Board member of Women's League of Burma.

INTERNATIONAL FEDERATION FOR HUMAN RIGHTS,
Paris, May 14, 2009.

His Excellency BAN KI MOON,
Secretary General of the United Nations, United Nations Secretariat, New York, NY.

DEAR SECRETARY GENERAL: The International Federation for Human Rights is addressing to you in order to request your urgent intervention in Burma/Myanmar in favor of the Nobel Prize for Peace and leader of the National League for Democracy, Daw Aung San Suu Kyi.

FIDH has already expressed its deep concern regarding the health of Daw Suu Kyi, following information that her situation had worsened in the past few days. Ms. Suu Kyi's blood pressure was reportedly low, she was suffering from dehydration and had stopped eating. In addition, her medical doctor, the physician Tin Myo was arrested on May 7th, following his visit to Ms. Suu Kyi and is still under detention.

Unfortunately and despite the fragile state of health of the Nobel Peace Prize, FIDH was informed that Daw Aung San Suu Kyi has been transferred to Insein prison in Yangoon, and appeared today before a special court, in order to hear the charges against her, her two live-in party members Daw Khin Khin Win and her daughter Win Ma Ma and an American man, John William Yettaw. They are all charged under section 22 of the State Protection Act (Law Safeguarding the State from the Dangers of Subversive Elements). The charges relate to the violations of the rules and regulations surrounding her house arrest. If she is convicted of this offence, she will be subject up to three years of imprisonment under this article. During her appearance before the court today, Ms. Suu Kyi was not asked any questions. The judge ordered the defendants to return to court again on May 18, 2009.

According to the latest information, Daw Aung San Suu Kyi, Daw Khin Khin Win and Daw Win Ma Ma were not sent back to their residence. They are currently detained in Insein prison.

The International Federation for Human Rights condemns in the strongest possible terms this new campaign of intimidation and harassment against the Nobel Peace Prize, ahead of the 2010 elections and just some days before her house arrest is due to expire at the end of May. This last episode deprives the ''road-map to democracy'' and the electoral process in Burma/Myanmar from any legitimacy.

The United Nations and you personally have been long engaged for the reconciliation process of all parties in Burma and the dialogue with the Burmese authorities. The United Nations have received in the past harsh criticism for the absence of concrete measures to improve the human rights situation in Burma/Myanmar, despite the strong engagement of the various United Nations mechanisms.

The intentions of the Burma/Myanmar authorities are seriously questioned today worldwide, it is time for the United Nations

Security Council and you personally to take urgent action for the immediate and unconditional release of Ms. Suu Kyi. Daw Aung San Suu Kyi has a crucial role to play in the democratization process in Burma as a major political interlocutor. The collective responsibility of the international community and of the United Nations in particular, to protect the Nobel Peace Prize is now even more crucial than ever. FIDH is trustful that the United Nations will step up to this duty and guarantee the safety, security and freedom of Daw Aung San Suu Kyi.

I'm urging you personally to act as soon as possible to protect her integrity. The urgency of the situation requests coordinated and strong action.

Hoping that you will take the above considerations fully into account, I remain,

SOUHAYR BELHASSEN,
FIDH President.

Mr. MCCAIN. Mr. President, the country's of Southeast Asia should be at the forefront of this call. ASEAN now has a human rights charter, in which member countries have committed to protect and promote human rights. Now is the time to live up to that commitment. ASEAN could start by dispatching envoys to Rangoon in order to demand the immediate and unconditional release of Aung San Suu Kyi. This courageous leader, and all those Burmese who have followed her lead in pressing for their own inalienable rights, should know all free people stand with you and support you. The world is watching not only your brave actions but also those of the military government whose cruelty and incompetence know no bounds. Burma's future will be one of peace and freedom, not violence and repression. We, as Americans, stand on the side of freedom, not fear of peace, not violence, and with the millions in Burma who aspire to a better life, not those who would keep them isolated and oppressed.

The United States has a critical role to play in Burma and throughout the world as the chief voices for the rights and integrity of all persons. It is a role we suppress at the world's peril and our own. A strong public defense of the rights of oppressed people has been and must remain an enduring element in American foreign policy. Nothing can relieve us of the responsibility to stand for those whose human rights are in peril or the knowledge that we stand for something in this world greater than self-interest. Should we need inspiration to guide us, we need look no further to that astonishingly courageous leader, Aung San Suu Kyi.

The junta's latest actions are once again a desperate attempt by a decaying regime to stall freedom's inevitable success in Burma and across Asia. They will fail, as surely as Aung San Suu Kyi's campaign for a free Burma will one day succeed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I rise today in support of the Credit Card Accountability and Disclosure Act of 2009 and the ways in which I believe this measure is in the best interests of my constituents in North Carolina.

Before I begin, I would like to thank my colleagues from Connecticut and Alabama, Senators DODD and SHELBY, for bringing together concerns and ideas from both sides of the aisle to craft a bipartisan compromise. This bill could not come at a more critical time for North Carolina's hardworking families.

More often than not, through no fault of their own, North Carolina families are suffering tremendously during this time—the harshest economic climate since the Great Depression. Our unemployment rate is 10.8 percent—the fourth highest in the Nation. Home values have declined dramatically. Many families have lost nearly all their savings. Nearly a half million jobs have been lost in North Carolina. From banking to manufacturing, North Carolina is home to some of the industries that have taken the biggest hit in this economic downturn. To say the least, the situation is dire for many families in North Carolina and around the country.

The people of my State are hardworking and honest. While they are struggling to make this month's mortgage payment or put food on the table for their families, they are troubled by next week's and next month's bills. They are concerned about the unexpected expenses they may have to bear—for example, an illness or their car breaking down. With all the other issues these families are dealing with in this economic downturn, imagine realizing that you are still paying interest on a balance you thought you had already paid or watching that interest rate double because times are tight and you fell just a little behind.

Unfair, yet all-too-common credit card practices, such as interest charges on debt paid on time—a practice known as double-cycle billing—arbitrary interest rate increases, and exorbitant and unnecessary fees are only making matters worse for families who are already struggling just to get by. Obviously, it costs money to borrow money. Nobody is suggesting that credit card issuers shouldn't be able to make a profit. But for consumers the rules should be fair, transparent, and exactly the same from the beginning to the end.

I support the Dodd-Shelby amendment because it requires just that. The bottom line is that this bill restores fairness and sensibility to credit cards and a sense of security to families in North Carolina. This bill ensures that credit card companies honor their promises and specifies that the card companies can't change the rules in the middle of the game. While North Carolina's families are struggling, they shouldn't have to worry about hitting a moving target when it comes to paying their bills.

The Dodd-Shelby amendment will also provide consumers with simple, clear information that allows them to make informed decisions that make the most sense for themselves and their families. One important step which will provide consumers with the information they need to make their choice is the payoff timing disclosure language included in this bill. The legislation we are considering would require credit card issuers to prominently display two important numbers on billing statements: the amount of time it would take to pay off the bill if the cardholder is paying only the minimum balance due each month, and the minimum monthly payment required to pay off the entire bill in 36 months.

For example, it would take a cardholder with a $4,000 balance and an 18-percent interest rate, making the minimum payments, nearly 6 years to pay off their credit card. It costs next to nothing for issuers to provide borrowers with this information, but this information can be extremely helpful as cardholders try to become more efficient in their financial planning.

Ultimately, by keeping the rules fair, clear, and consistent, we can save American families thousands of dollars each year. As we work to right this ship and get our economy moving again, I cannot imagine this relief coming at a better time for North Carolina's families.

I am proud to stand on the floor of the Senate and voice my support for this measure. My constituents deserve progress, not lip service, on this and so many other important issues that they are grappling with in these hard economic times.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. AKAKA. Mr. President, I support the Credit CARD Act of 2009. I want to commend the chairman of the Banking Committee for his outstanding efforts to craft this legislation. I also appreciate the work done by Senator SHELBY in developing a bill that should be able to garner broad bipartisan support and become law.

Too many in our country are burdened by significant credit card debt. Not enough has been done to protect consumers and ensure they are able to properly manage their credit burden. We must do more to educate, protect, and empower consumers. Although this comprehensive legislation has numerous provisions that benefit consumers, my remarks will focus on the portion of the legislation which is based on my legislation, the Credit Card Minimum Payment Warning Act. I originally introduced the act in the 108th Congress. I have greatly appreciated the efforts of Senators DURBIN, SCHUMER, and LEAHY, who helped develop and support

the legislation. I also want to acknowledge Senator FEINSTEIN for her contributions on this issue.

We attempted to attach our legislation as an amendment to improve the flawed minimum payment warning in the Bankruptcy Abuse Prevention Act. On March 2, 2005, an editorial in the Washington Post criticized the bankruptcy legislation then being considered. The editorial stated, ''at the very least, as Senator DANIEL K. AKAKA has proposed, credit card issuers, who now send out five billion solicitations a year . . . ought to be required to disclose to borrowers the true cost of making only the minimum payments.'' Mr. President, I ask unanimous consent that the text of the entire editorial be printed in the RECORD following my remarks. Unfortunately, our amendment was defeated.

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

(See exhibit 1.)

Mr. AKAKA. Mr. President, although there have been some modifications and additions, the Credit CARD Act contains the primary provisions of my legislation. The legislation requires that consumers be told how long it will take to repay their entire balance if they make only minimum payments. The total cost if the consumer pays only the minimum payment, would also have to be disclosed. These provisions will make individuals much more aware of the true cost of credit card debt. Consumers would have to be provided with the amount they need to pay to eliminate their outstanding balance within 36 months, which is a typical length of a debt management plan.

The personalized payment disclosures are important, but consumers must be given opportunities to find reputable credit counseling services. Section 201 also includes our requirement for creditors to establish and maintain a toll-free number so that consumers can access trustworthy credit counselors. The toll-free number will have to appear on credit card billing statements along with the minimum payment warning information. More working families are trying to survive financially and meet their financial obligations. Consumers often seek out help from credit counselors to better manage their debt burdens. It is extremely troubling that unscrupulous credit counselors exploit individuals who are trying to locate the assistance that they need. As financial pressures increase for working families, credit counseling becomes even more important. The CARD Act will assist working families with finding credit counselors that will help, rather than exploit, them.

Yesterday, I filed an amendment to the CARD Act to simplify the administration of the credit counseling referral provision. The amendment requires the Federal Reserve Board to issue the guidelines for the development and maintenance by creditors of a toll-free number to provide information about credit counseling and debt management services. Referrals for credit counseling services via the toll-free number could only go to nonprofit credit counseling agencies approved by U.S. bankruptcy trustees. This modification will utilize an existing approval process and list of reputable credit counselors rather than creating a new approval process for the purposes of section 201. I thank the chairman and ranking member for their willingness to accept this amendment.

After many years, it appears that we may finally be enacting a bill that will educate, protect, and empower credit card consumers. Once again, I thank Chairman DODD for all of his outstanding efforts to help working families. The administration also deserves credit for their efforts to help move this legislation closer to enactment. I look forward to continuing to work with my colleagues and the administration on this and other essential consumer protection legislation.

EXHIBIT 1

[From the Washington Post, Mar. 2, 2005]

FIXING THE BANKRUPTCY SYSTEM

Until this year, the seemingly perennial congressional debate about overhauling the nation's bankruptcy laws was something of an academic exercise: The measure wasn't going to pass because Senate Democrats insisted on an abortion amendment unacceptable to the House. Now, with a bolstered Republican majority, it's not clear that Democrats can muster enough votes for that amendment, which would prevent anti-abortion protesters from filing for bankruptcy to evade damage awards. As a result, the underlying question about the bankruptcy bill suddenly matters: Does it strike the right balance between preserving the protections of bankruptcy and preventing abuse by spendthrifts? The bill is neither as draconian as its opponents protest nor as balanced as its supporters proclaim. Its central tenet, that those who can repay some of their debts ought to do so, is reasonable. But the bill could be made fairer with a number of amendments set to be considered.

The number of Americans filing for bankruptcy exploded in the past quarter-century. In 1980, there was one personal bankruptcy filing for every 336 households in the United States; in 1993, one for every 144 households; and in 2003, one for every 73 households. But there is little agreement on the cause of this growth. Those who support tightening bankruptcy laws say the system is abused by people who could repay their debts but are no longer deterred by the stigma once associated with bankruptcy. Those who oppose the change say credit card companies entice borrowers to run up their bills; they also cite the toll of medical debt among those who lack adequate health insurance.

The Senate bill would tighten access to the most generous and popular form of bankruptcy, Chapter 7. People filing for Chapter 7 bankruptcy can wipe out their debts and get a ''fresh start.'' The bill would impose a means test: Debtors who earn less than the median income in their state—about 80 percent of those who file for bankruptcy—still would be entitled to file under Chapter 7. But those who earn more than that—and who have the ability to repay at least $6,000 over five years—would have to file under Chapter 13, which requires a repayment plan. Experts estimate that means testing would affect no more than 10 percent of consumer bankruptcy filers.

In theory a means test is reasonable, but the test in this legislation is unnecessarily rigid. It considers the previous six months of earnings, even if the bankruptcy filer is now out of work. Moreover, once filers show that their income is below the median, there's no reason to require them to provide additional information. Sen. Edward M. Kennedy (D-Mass.) has outlined amendments to address these issues, as well as a sensible proposal that would provide a $150,000 homestead exemption to help the elderly and those driven to bankruptcy by medical expenses keep their homes.

If the Senate tightens rules for those filing for bankruptcy, it also should crack down on the corporate practices that contribute to the problem. At the very least, as Sen. Daniel K. Akaka (D-Hawaii) has proposed, credit card issuers, who now send out 5 billion solicitations a year and whose profits have soared, ought to be required to disclose to borrowers the true cost of making only the minimum payment on their balances.

Mr. AKAKA. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. SHAHEEN.) Without objection, it is so ordered.

Mr. BROWN. Madam President, I ask unanimous consent to speak as in morning business.

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

GENERAL MOTORS

Mr. BROWN. Madam President, it has come to my attention that General Motors, one of America's largest corporations—that General Motors, which is seeking Federal assistance to save their business—now has plans to take that money and create jobs. That should be good news. That is, after all, what Congress intended; that General Motors take money the Government loans them and taxpayers send to them, that it awarded a U.S. company—this company—more than $15 billion in Federal loans earlier this year, that they would, in fact, create jobs.

But that is why I was in a state of disbelief last night when I learned General Motors is not going to create those jobs in the United States, not in my State of Ohio, not in Michigan, not in Indiana, not in big auto States, not in Missouri, they are going to create jobs not in the United States, those States which continue to hemorrhage auto jobs.

In fact, what GM wants to do is take our tax dollars and create jobs in China by building a new car, a car they will then export back into the United States for Americans to purchase. Let me say that again. GM is taking U.S. tax dollars, going to close American auto plants, open new auto plants in China, then sell those cars it produces back into the United States to Americans.

The audacity of such a plan cannot be emphasized enough. In short, it is outrageous. It appears that what is good for GM is no longer good for America. This is a slap in the face to American autoworkers, to American taxpayers, to American communities. It is a slap in the face to every autoworker in Ohio, in neighboring Michigan, in every State where men and women work hard and play by the rules and pay their taxes, not just States that produce autos, but the States—all 50 of our States—that produce auto parts, components and tires and glass and door locks and all the other kinds of things that go into cars.

These funds, those auto funds that came from taxpayers, were meant to rebuild our Nation's middle class, not dismantle it, not dismantle the middle class, not shut these plants and then send jobs overseas.

If GM officials think U.S. taxpayers will finance cars made in China while American plants are closing, GM is either tone deaf or tunnel visioned. I would urge GM not to betray the working men and women of our Nation. We have the most talented labor force and qualified autoworkers anywhere, bar none.

I would invite GM officials to travel with me across Ohio; to Lorain, to Twinsburg, to Lordstown, all auto plants, all auto cities. That is just in northeast Ohio alone. All across our State we have the greatest, most talented labor force to build these cars. We have the facilities to produce these cars.

The question is whether GM has any commitment to our Nation, a nation whose taxpayers are working to rescue them. There is no excuse for GM using taxpayer funds for Chinese imports, not when there are American workers ready to build these cars, when there are shut down or idled U.S. auto plants prepared to produce them.

Smaller, more fuel-efficient vehicles represent the future of the auto industry, and American workers can produce and must produce those vehicles in the United States. Ohio workers will not stand idly by while GM sends these jobs and our tax dollars overseas to a nation with little or no labor standards and woefully weak safety standards.

Interestingly, when you think about the safety of these cars that may, in fact, be built by GM in China and sent back to the United States, think about some of the practices in other consumer products. Think about what happened with contaminated products, contaminated ingredients that went into Heparin, a blood-thinning drug that came back and killed some 100 Americans because of contaminated ingredients, or think about Hasbro toys, which were outsourced to China, where those Chinese subcontractors put lead-based paint on these toys. They came back to the United States and had toxic parts-per-million amounts of lead in the paint and on those toys.

If GM wants to receive more funds from U.S. taxpayers, it must commit to using those tax dollars to maintain jobs and production at home. Today, I wrote Secretary Geithner, the Secretary of the Treasury, urging the Obama administration, as part of the terms of further Government assistance, to require GM to invest in U.S. production.

The President's Auto Task Force has a difficult job. Its mission is to guide GM toward long-term viability and toward success. Given the number of auto manufacturing layoffs in my State, given the sacrifices autoworkers and their families continue to make to facilitate the restructuring of GM, I do not see how the administration can, in good conscience, provide taxpayer funds to support General Motors' offshoring of auto production.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. I ask unanimous consent that the order for the quorum call be rescinded.

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

DERIVATIVES REGULATION

Ms. CANTWELL. Madam President, I rise to discuss what I hope will be a turning point on our road to economic recovery. The Obama administration yesterday asked Congress to swiftly pass sweeping and historic regulatory reforms on derivatives, credit default swaps, commodities trading, and other sectors of the financial marketplace that collapsed last year under the weight of unrestrained speculation. The road to this point has not been easy. For months I have been urging the administration to move quickly to propose strong regulatory controls on these markets, require transparency in derivatives trading, and restrict market manipulation. With the announcement yesterday by Treasury Secretary Geithner in a letter he sent to Senate and House leaders, the administration has come down decisively on the side of imposing order on a marketplace whose collapse made this current recession so much deeper and more painful for the average American than it needed to be.

The administration clearly supported in writing bringing the unregulated ''dark'' over-the-counter derivative markets under full regulation for the very first time. The administration has correctly identified the top three key goals of regulatory reform in the unregulated over-the-counter derivatives market. First, transparency on all dark markets. All derivative transaction dealers will be brought under prudential regulation and supervision which means capital adequacy requirements, antifraud and antimanipulation authority, and very clear transparency and reporting requirements.

Second, all standardized trading of physical commodities and other derivatives will finally be required to be traded on fully regulated exchanges.

Third, imposing position limits on regulated markets to prevent any market player from amassing large positions that can harm the market. I have received in e-mail additional assurances from the administration that they believe these position limits should be applied in the aggregate across all contract markets to prevent fraud and manipulation.

Mr. Geithner's announcement yesterday was truly historic. Americans have suffered through an era of deregulation that is primarily the cause of this economic crisis. How did we get here and why is this historic?

A decade ago Congress passed, in the dark of night at the end of the Congress in 2000, a law known as the Commodities Futures Modernization Act that provided ironclad protections from regulation for financial tools. One courageous regulator, then Commodities Futures Trading Commission Chairwoman Brooksley Born, warned Congress and the financial community that unregulated derivatives could cause potential serious dangers to the economy. But some in Washington blocked her efforts, including Wall Street and senior administration officials.

One high-ranking Treasury official charged with pushing this deregulation bill through Congress was Gary Gensler, a former high-ranking executive at Goldman Sachs. As Under Secretary of the Treasury, Mr. Gensler testified before Congress that he ''unambiguously opposed'' regulating the derivatives market. Mr. Gensler was wrong. For Brooksley Born's courage in standing up to powerful financial interests in proposing tougher rules, she is being awarded the Profiles in Courage award by the John F. Kennedy Foundation this year.

With yesterday's announcement, this administration embraces the reforms that Brooksley Born argued we needed a decade ago. This was an uphill battle. There were too many people with a financial stake in the old, unrestrained trading system. But it was because of my concern that the President's commitments to government reform and increased transparency would be overshadowed by those willing to take a go-slow approach to regulatory reform that I placed a hold on the President's nomination of Gary Gensler to be Chairman of the Commodities Futures Trading Commission. In my view, Mr. Gensler helped perpetuate the lax regulation that contributed to our current economic crisis while he was Under Secretary of Treasury during the latter years of the Clinton administration.

While Mr. Gensler has recently stated he supports stronger regulatory rules for financial markets, in 2000, he supported legislation that provided ironclad protections against regulation of financial products such as credit default swaps and derivatives. I hardly need to remind my colleagues of the disastrous results of that course of action.

The world of derivatives and credit default swaps is foreign to most Americans. The vulnerability of these markets to rampant speculation and the complex set of regulatory structures needed to address the problems are not easy to grasp, even for insiders of the financial industry. But my constituents in Washington State know all too well the consequences of inaction and lax oversight. To us, the financial meltdown is not just an object lesson in greed and avarice playing out on the other coast; it is an issue that has affected our daily lives. We remember when the lights went out over the energy crisis brought on by Enron's predatory speculation that threw the western power grid into disarray. This perfect storm—a combination of drought, botched regulation, and Enron's market manipulation—cost west coast consumers more than $40 billion, and it took years to unravel the mess.

The rules of the financial game may be esoteric, but the consequences of a financial meltdown are well understood by my constituents. It is because of my involvement in bringing Enron's speculative schemes to light and seeing the type of business abuse in the financial markets that I am determined to take steps to ensure that such abuse does not happen again. I am glad President Obama has listened to those on Capitol Hill and those within his own administration who believed strongly that bold and timely action was critical to ensure stability of our financial markets. I continue to have concerns about Mr. Gensler's appointment to head the agency responsible for regulating swaps and other derivatives whose collapse amid unrestricted speculation caused so much damage to the economy. But in light of the administration's significant and potentially historic stand on new controls over derivative markets, I am prepared to lift my hold on his confirmation and, instead, focus on ensuring that the legislation we pass includes the recommendations the administration has made.

I say that I hope the administration's new policy will become a turning point, because we have more work to do to make sure these concepts become law. The Treasury Department announcement was not a piece of legislation but, rather, a policy outline, a statement of the kind of bill the White House would support. It is now up to us in Congress to turn this into law. I am committed to working with Senate leadership to ensure that the resulting legislation closes loopholes and that we get about making sure that the previously poorly designed controls are eliminated.

Where necessary, we must be willing to go even further than the administration in crafting a bill that puts an end to destructive and predatory forms of speculation. But I applaud the bold position outlined in the Treasury Secretary's letter to House and Senate leadership yesterday.

The idea here is not to impose regulation for regulation's sake. The idea is to protect the American people from the consequences of unrestrained speculation. Our constituents are justifiably angry, because they have seen millions of jobs and trillions of dollars in savings evaporate while speculators who aggravated the crisis floated away on golden parachutes.

Undoubtedly, in the weeks to come, Wall Street interests will have a lot to say about regulatory reforms. They should say it to the average American who has been taking a crash course in the financial crisis over the past year. Our obligation is not to these speculators. It is to the people who work hard, whose ingenuity and extraordinary productivity have provided the lift that has made our economy the envy of the world. It is now our time to do our job to put in the robust reforms that will make their hard work pay off in the days ahead.

I ask unanimous consent that Treasury Secretary Timothy Geithner's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, May 13, 2009.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: In late March I laid out in congressional testimony a broad framework for regulatory reform. As I indicated then, one essential element of reform is the establishment of a comprehensive regulatory framework for over-the-counter (OTC) derivatives, which under current law are largely excluded or exempted from regulation. Since then, the Treasury Department has been consulting with the Commodity Futures Trading Commission (CFTC), the Securities and Exchange Commission (SEC), and other federal regulators regarding the design of such a framework. Today I am writing to follow up with further details on the amendments to the Commodity Exchange Act (CEA), the securities laws, and other relevant laws that I believe are needed to enable the government to regulate the OTC derivatives markets effectively for the first time.

Government regulation of the OTC derivatives markets should be designed to achieve four broad objectives: (1) preventing activities in those markets from posing risk to the financial system; (2) promoting the efficiency and transparency of those markets; (3) preventing market manipulation, fraud, and other market abuses; and (4) ensuring that OTC derivatives are not marketed inappropriately to unsophisticated parties. To achieve these goals, it is critical that similar products and activities be subject to similar regulations and oversight.

To contain systemic risks, the CEA and the securities laws should be amended to require clearing of all standardized OTC derivatives through regulated central counterparties (CCPs). To ensure that this measure is effective, regulators will need to take steps to ensure that CCPs impose robust margin requirements and other necessary risk controls and to ensure that customized OTC derivatives are not used solely as a means to avoid using a CCP. For example, if an OTC derivative is accepted for clearing by one or more fully regulated CCPs, it should create a presumption that it is a standardized contract and thus required to be cleared.

All OTC derivatives dealers and all other firms whose activities in those markets create large exposures to counterparties should be subject to a robust and appropriate regime of prudential supervision and regulation. Key elements of that robust regulatory regime must include conservative capital requirements, business conduct standards, reporting requirements, and conservative requirements relating to initial margins on counterparty credit exposures. Counterparty risks associated with customized bilateral OTC derivatives transactions that would not be accepted by a CCP would be addressed by this robust regime covering derivative dealers.

The OTC derivatives markets should be made more transparent by amending the CEA and the securities laws to authorize the CFTC and the SEC, consistent with their respective missions, to impose recordkeeping and reporting requirements (including an audit trail) on all OTC derivatives. Certain of those requirements could be deemed to be satisfied by either clearing standardized transactions through a CCP or by reporting customized transactions to a regulated trade repository. CCPs and trade repositories should be required to, among other things, make aggregate data on open positions and trading volumes available to the public and to make data on any individual counterparty's trades and positions available on a confidential basis to the CFTC, SEC, and the institution's primary regulators.

Market efficiency and price transparency should be improved in derivatives markets by requiring the clearing of standardized contracts through regulated CCPs as discussed earlier and by moving the standardized part of these markets onto regulated exchanges and regulated transparent electronic trade execution systems for OTC derivatives and by requiring development of a system for timely reporting of trades and prompt dissemination of prices and other trade information. Furthermore, regulated financial institutions should be encouraged to make greater use of regulated exchange-traded derivatives. Competition between appropriately regulated OTC derivatives markets and regulated exchanges will make both sets of markets more efficient and thereby better serve end-users of derivatives.

Market integrity concerns should be addressed by making whatever amendments to the CEA and the securities laws which are necessary to ensure that the CFTC and the SEC, consistent with their respective missions, have clear, unimpeded authority to police fraud, market manipulation, and other market abuses involving all OTC derivatives. The CFTC also should have authority to set position limits on OTC derivatives that perform or affect a significant price discovery function with respect to regulated markets. Requiring CCPs, trade repositories, and other market participants to provide the CFTC, SEC, and institutions' primary regulators with a complete picture of activity in the OTC derivatives markets will assist those regulators in detecting and deterring all such market abuses.

Current law seeks to protect unsophisticated parties from entering into inappropriate derivatives transactions by limiting the types of counterparties that could participate in those markets. But the limits are not sufficiently stringent. The CFTC and SEC are reviewing the participation limits in current law to recommend how the CEA and the securities laws should be amended to tighten the limits or to impose additional disclosure requirements or standards of care with respect to the marketing of derivatives to less sophisticated counterparties such as small municipalities.

I am confident that these amendments to the CEA and the securities laws and related regulatory measures will allow market participants to continue to realize the benefits

of using both standardized and customized derivatives while achieving the key public policy objectives expressed in this letter. I look forward to working with Congress to shape U.S. legislation implementing these measures. We will need to take care that in doing so we do not call into question the enforceability of OTC derivatives contracts. We also will need to work with authorities abroad to promote implementation of complementary measures in other jurisdictions, so that achievement of our objectives is not undermined by the movement of derivatives activity to jurisdictions without adequate regulatory safeguards.

Sincerely,

TIMOTHY F. GEITHNER.

Ms. CANTWELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, it was my intention to call up two first-degree amendments at this time: Amendment No. 1094, which is an amendment that is cosponsored by Senator MCCASKILL and Senator COLLINS; and then it was my intent to call up amendment No. 1095. Both of these amendments are germane amendments. I understand that if I attempted to call them up now and set them aside, there would be an objection. So I will not do that at this time, but it is my intent to call up these, either before cloture or postcloture, because they are germane amendments. I just wish to alert our colleagues it is our intent to call up these two amendments.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Madam President, I rise to speak on an amendment that I intend to offer, cosponsored by Senators DURBIN and SANDERS, which would complement the Credit Card Act by restoring to each of the 50 States the power to enforce maximum interest rates against out-of-State lenders. I urge my Republican colleagues to attend to this as well because I know they have taken a particular interest over the years in the sovereign power of the State, what a constitutional scholar would call the Doctrine of Federalism, and this is certainly an important step in that direction.

The bill we are debating this week will make enormous advances in banning some of the most egregious credit card tricks and traps that consumers face out there. I commend the distinguished chairman for his heroic, patient, determined work in bringing us to this point. I believe we also need to give State governments the ability to go after the most dangerous trap of all: outrageous and unjustifiable interest rates.

I have heard so many stories from countless Rhode Islanders: A missed payment or a late payment turned a reasonable interest rate into a 25-percent or 35-percent penalty rate, and a family suddenly finds itself in a hole it can't climb back out of.

Professor Ronald Mann of Columbia University has called this credit card business tactic the ''sweat box.'' Credit card companies have found it profitable to hit their most distressed customers with penalty rates and fees that are designed to sweat out of those customers the maximum monthly payments before the inevitable bankruptcy filing.

Prior to 1978, all the way back to the founding of the Republic, States had the ability to prohibit excessive interest rates and to protect their citizens. It is part of our national history. That changed following a U.S. Supreme Court decision in 1978: Marquette National Bank of Minneapolis v. First of Omaha Service Corp.

Marquette did not seem like a big case at the time—not a case that would, in practice, end one of the sovereign State's most basic and ancient authorities—to protect their citizens. In Marquette, the Supreme Court interpreted the word ''located''—one word—in the Civil War-era National Bank Act as giving regulatory authority over a loan to the States that was the primary place of business of the bank, as opposed to the State that was the location of domicile of the consumer. It seemed like a technical case, but the meaning of this one-century-old word defined that way has had the effect of crippling the ability of States to effectively police usurious lending practices by out-of-State banks.

Following Marquette, credit card lenders realized they could avoid State law consumer protections by reorganizing as national banks and operating their businesses out of a handful of States that either lacked meaningful interest rate restrictions or were willing to toss out their consumer protection laws in order to attract this new business. Thus began the proverbial race to the bottom. Today, it is unusual to find a credit card lender not based in one of the two or three States that have turned weak consumer protection into a profitable industry.

My amendment and the bill on which it is based, S. 255, would amend the Truth in Lending Act to legislatively reverse the Marquette decision, restore the historic power of the States, and to make clear that each State has the right to protect its citizens with interest rate restrictions on consumer lending no matter where the lender chooses to locate their physical office.

If enacted, Rhode Island, Connecticut, and other States could, once again, as they did for decades—for centuries before Marquette—say ''enough'' to faraway credit card lenders gouging their citizens. As a former State attorney general who was closely involved in consumer protection issues, I feel strongly that States have an important role to play in protecting their citizens from abusive and heavy-handed business practices. This amendment would acknowledge and strengthen that role.

Mr. DODD. Madam President, would the Senator yield for an observation?

Mr. WHITEHOUSE. I gladly yield to the distinguished chairman of the Banking Committee.

Mr. DODD. I thank the Senator for raising this issue, and I appreciate the time he has put into this and the effort he has expended for what he is trying to accomplish. I know his constituents and mine suffer, as all of us do, from abusive interest rates and fees and believe that broader interest rate reform is something we in the Senate should carefully consider. In fact, a good part of this legislation is designed to do exactly that.

The Senator's amendment goes beyond the credit card reform, however, and would affect many varieties of consumer lending beyond just credit cards. I, therefore, would inquire of the Senator from Rhode Island if he would be willing to withhold his amendment and defer consideration of the issue as we are preparing to take up broader financial regulatory reform later this year; in fact, within the next few months.

In the interim, I wish to assure the Senator from Rhode Island, Mr. WHITEHOUSE, that he has my personal commitment that the Banking Committee, which I chair, will take a careful look at his proposal. We have held a major series of hearings on regulatory modernization, we are planning a number of others, and this subject will be an appropriate one for consideration in these hearings during the committee's consideration of related legislation. Perhaps the Senator from Rhode Island can recommend a witness or witnesses—I certainly know of several—who would like to testify, including himself or other Members who are cosponsors of his amendment, or like many of us who share his concern about the Marquette decision and what it has done in terms of usury laws.

I often point out that both in the Old Testament and the New Testament, while I don't claim to be a Biblical scholar, there was nothing that more outraged Jesus Christ than the money changers in the New Testament. Certainly, there are plenty of examples in the Old Testament of usurious lending practices. It is as old as Biblical times, the admonition regarding charging outrageous interest rates. We have rates today, as I have said before, that would make organized crime blush if they were to see them.

Anyway, the Senator has proposed a reform of our system of banking regulation with wide-reaching consequences, and the proposal deserves

the full vetting of the Banking Committee. I assure him we will have a full vetting.

I ask my colleague and friend from Rhode Island whether he would be willing to entertain this proposal and defer this matter until we deal with a larger set of issues and to also confirm for him my similar concern that he has raised and would have raised with this amendment.

Mr. WHITEHOUSE. Madam President, I thank the chairman of the Banking Committee for his offer. With this understanding, I will agree to withhold on my amendment on this particular piece of legislation.

I believe we need to look at broader interest rate reform, and I appreciate the commitment of the distinguished Banking Committee chairman to look at the Marquette issue in that context. I also wish to applaud the chairman for developing the legislation we are debating. This is one of those areas where wisdom accrued over years of legislative experience allows us to expand the realm of the possible, and of course legislation is the art of the possible. Through his wisdom, through his experience, he has been able to get to the very outermost bounds of the possible on this legislation and perhaps even move those outermost bounds out a little bit. So I applaud the chairman for this extraordinary accomplishment. The Credit Card Act will go a long way in cleaning up the practices of unscrupulous credit card lenders, and the Senators from Connecticut and Alabama deserve high praise for their hard work in bringing us to this point.

I thank both my colleagues and I yield the floor.

Mrs. MCCASKILL. Madam President, I congratulate the chairman of the Banking Committee for daring to go where no one was willing to go for a long time; that is, regulating the credit card industry. I have learned about some of the tricks of the credit card industry the hard way. My father had a significant and serious and protracted illness, and mom was trying to get through it without burdening any of us. Without any of us realizing it, she got in a hole with credit card companies. Once I figured out that she had gotten into the hole, I set about the business of trying to help.

I have a law degree. I am not a shy person. I am someone who is willing to say what I think. I helped write law at the State level, and I think I understand contract law. As I began to get through all the fine print and deal with the credit card companies that she was indebted to, I became more and more frustrated. I began to realize what has happened with unsecured debt in America through credit card companies. There is a lot of bait and switch that goes on. There is a desire to get hold of the credit card customer who never pays the principal. My mom was a dream customer. She paid like clockwork, in terms of the minimum payment, but never quite had enough to get around to the principal. The saddest part of the story is how hard it was for me to pay off the cards. They didn't want me to pay them off. I remember being on a phone call for 3 hours, and I had been to several countries by the time the call was concluded. I was told that it was impossible for me to send a payment to pay off the card the same month. It had to be sent in a separate payment. We were trying to pay off the card. They didn't want it. One of my favorites is that she made a payment on a card, and I paid off the balance. Then a bill came, and it was a negative balance. They owed us money. But you are not going to believe it, but, again, they owed us money, and guess what they had done. They charged us interest. I called this person on the phone and said, ''I am trying to figure this out. You owe us money and there is a charge for interest on the bill.'' That is when I began to learn the reality of ''trailing'' interest. It was mind boggling to me, the tricks and the traps that were embedded in these credit card agreements.

We got an e-mail from a constituent. Actually, we have gotten thousands of them, especially in the last 6 months. This letter says the following:

> The reason I am contacting you is because of a problem with Bank Corp. I received several emails from Bank Corp [asking me] to apply for a credit card. I eventually did. The credit card interest rate was to be a fixed 7.99 percent. . . . After the card was approved, the interest rate was 7.99 percent for several months. Then the rate was raised to 23 percent and, as of the July, 2008 statement, the interest rate was raised to 35.49 percent. I called Bank Corp and spoke with Erin, the representative that answered the phone. After being put on hold for [a long period of time], I was told that my account was in good standing. The payments had been made on time. She said Bank Corp had changed their lending practices and that was the reason for the interest hike. I was told there was no lower rates available, even though my account was in good standing. I was also told there was nothing I could do to change this and there was no way to protest the interest hike.

This man asked me, ''Is this legal?'' Sadly, we had to tell him that it was every bit legal.

I understand the risk of unsecured debt. I understand that these banks are trying to get credit to people. But one of my favorite parts of the hearing we had on this subject was in Senator LEVIN's Permanent Subcommittee on Investigations, when I asked one of the credit card executives about the fact that they want to give these cards to college students. I am not lying about this; this was actual testimony given in this hearing. I asked him about the fact that they were sending cards to college students. I was trying to get to the bottom of the practice where they were doing kickbacks to colleges in return for their lists so that they could solicit the students, give them credit cards. My favorite response was when I asked, with as much sincerity as I could muster, ''I guess you find these college students a good risk for all these insecure debt.'' He said, ''Yes, they are very good risks.'' I was thinking: what planet is he on? I have college students. They are no more a good risk than someone who has a horrible credit rating. They send these cards to kids because they know their parents, if they are in college, don't want them to get into trouble and they will bail them out if they get in too deep. They want to hook them into the pattern, charging big, paying interest only, and being on line to them for the principal for the rest of their lives.

We have work to do on this bill. I hope my colleagues on the other side of the aisle join us quickly in getting to a point where we can bring it to a final vote. It will stop many of these abusive behaviors—the ability to raise the interest rate because maybe you missed a utility bill by accident 1 month, or the practice of the trailing interest, where you find the credit card company owes you money and they still charge you interest. There are 3 amendments that I worked on with Senators LEVIN and COLLINS. One is no over-the-limit fee. If they let you go over the limit, they should not charge you a fee. And no interest on fees. And a very important amendment that we can do on credit card data collection so we have more information about what the interest rates are we are paying in America.

The irony of these spikes in interest rates for good credit customers is that this has occurred at a time when interest rates in our country are at a historic low. Ben Bernanke used about all the leverage he could to help our economy by lowering the interest rate, and lower the interest rate, and lowering the interest rate, and these companies can borrow money at very low rates. Yet, to the consumer right now, those interest rates are getting hiked and hiked and hiked—even when the person with the credit card has no indication that they present any kind of financial risk to that credit card company.

We wring our hands here about what we can do to help the people we work for. We know people are hurting now. I am not sure there is any piece of legislation that is more important to the people at home than this credit card bill, bringing to heel these companies who are taking advantage of an unlevel playing field, which is strewn with all kinds of information that is too difficult to even understand. Let's keep it simple and straightforward and make sure the rules are available for all people to understand, and let's make sure they are not engaged in the kind of practices that caused my mother so many sleepless nights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 1079

Ms. LANDRIEU. Madam President, I come to the floor to speak about one of the pending amendments, No. 1079. In a few minutes, I am going to make a motion on that amendment.

I did not get to hear all of what the wonderful Senator and colleague from

Missouri said, but I take it that she, like I, supports the underlying bill. I can appreciate the need for this consumer protection. As chairman of the Small Business Committee, I have been hearing literally for months, as has the occupant of the chair, who has sat through hearings with me—we have heard the tragic stories of small businesses that have done everything right—businesses that had excellent business models, people who have been in business for four decades or longer, businesses that have never missed a credit card payment. You have heard their pleas to us to give them some relief.

The consumers generally have said the same. The wonderful thing is that this underlying bill gives some relief to consumers, to personal credit cardholders. I commend Senator DODD and Senator SHELBY for bringing this bill to the floor. It only got out of this Banking Committee, which is tough to get any pro-consumer legislation out of, unfortunately, by only one vote, I understand. But they got it to the floor. It is a very important bill. People cannot have their interest rates raised without notice. They cannot have their balances double charged. In other words, right now, today, if you owed $5,000 on your credit card and you cashed in your savings bonds and everything else and paid $4,500 on that balance to get it down, under the current law, credit card companies can still charge you the full interest on $5,000. That is wrong. These same companies are receiving billions and billions of taxpayer dollars so they can turn around and fleece the people who are sending them the tax dollars to bail them out. It is unconscionable, truly. So the committee acted. They did the right thing. They extended these protections to consumers.

But there were some potential jurisdictional questions, or perhaps an oversight, that the bill does not protect holders of business credit cards. Twenty-five years ago, this wouldn't have been an issue, because most people who were building a business, or financing one, had other avenues of capital.

You can see on this chart the trend in credit card use. In 1993, 16 years ago, 16 percent of business owners said they used credit cards to finance their operations. In that 16 years, it has gone to 60 percent—from 16 percent to 60 percent. It has become a source of capital and cashflow, a tool, for small business.

Here again is another chart. We have learned this in our hearings we have had. Sources of small business financing in 2009: Credit cards, 59 percent, just about 60 percent; bank loans, 45 percent; vendor credit, 30 percent; used no financing—cash or savings—19 percent; private loans through a friend or family, 19 percent; and SBA loans, 5 percent. That is an important part, although it is small, which helps to finance. It is long term, I might say; our loans are 20, 25, 30 years. Some of these others are only 30- or 60-day loans. It is small, but it is important. We hope with your leadership, Madam President, and that of the Senator from Maine, we can get this number up.

The point of this discussion is this number—60 percent: Small businesses in Louisiana, from New Orleans, to Alexandria, to Shreveport—small business people I see when I am shopping at Costco or at Sam's Club, standing in line, and I know it is not a family because they have four dozen oranges. No family eats that many oranges in a week, so you know they are buying for their small business or restaurant or for their corner store. So we know that these small businesses are relying more and more on credit cards.

In this bill we are voting on, there is no protection for them—zero. This bill only protects personal credit cards, not business credit cards. So the Landrieu-Snowe amendment, cosponsored by the occupant of the chair—and I will get the list of others in a moment—it was cosponsored by several Members of the Senate, and they are Senators CARDIN, SHAHEEN, BROWN, CANTWELL, INOUYE, KLOBUCHAR, SNOWE, COLLINS, and I think others will be joining in support of this amendment. We have decided to offer an amendment that simply says the underlying safeguards for holders of personal credit cards should simply extend to businesses of 50 employees or less, up to $25,000 on their business card, because there are many people who carry a personal card for personal business. Of course, they may carry a business card for business-related business.

I know we have to give consumers relief, but I am here to say, as the chairman of the Small Business Committee, if we don't give our small businesses some relief, we are not going to have an economy to depend on because if we are looking for people to create jobs—which I think is what the President is calling on us to do—those jobs are going to be created by the small businesses of America. That is why in this debate the National Federation of Independent Businesses—not a bastion of liberalism by any means—is supporting this bill, and the American Society of Travel Agents, the American Beverage Licensees, the Consumer Federation of America, the Food Marketing Institute, the National Association for the Self-Employed, representing tens of millions of self-employed individuals—and they find it ironic that we say we are trying to get help to the little guy and we say we are trying to get help from Wall Street to Main Street. Yet every time there are amendments on the floor to actually do that, they never seem to be able to pass.

I know there are arguments that say: Well, we don't know what the effect of this amendment will be. I can tell you what the effect will be. The small businesses in America, the 20 million that will be affected by this, will say: Thank you for not allowing my rates to go up without notice. Thank you for not allowing them to double-charge me if I am paying down $20,000 on my $25,000 balance. Thank you, because I didn't get a penny from the TARP money, but at least I am getting some help through this consumer relief bill.

As I said, the National Federation of Independent Business, the National Small Business Association, the Petroleum Marketers Association of America, the Service Employees International Union, the Small Business Majority, and the Hispanic Chamber of Commerce, the Women's Chamber of Commerce, and the Black Chamber of Commerce have all endorsed this bill. We haven't heard yet from the U.S. Chamber, but I am hoping they will step forward—at least the small business section of the U.S. Chamber. I understand they represent large banks, credit card-issuing companies, so it is tough for them. But somebody has to speak up for small business, and I hope that right now my colleagues will consider this amendment.

Again, I am going to have to call it up for action now and actually move to table it, and when I do that, we will not be able to have any discussion on this because that motion is not debatable. That is why I am speaking about it now. But at least we will get on the record how people feel about this, and I am hoping we can get a substantial vote.

I have decided that even if it is just my vote, and the cosponsors and Senator SNOWE, at least the small business people in America will know there are some people here who understand they deserve the minimal protections this bill provides, particularly at this time, and that in the next year or two, or three, four, or five—until we get on safe ground—we need to be doing everything we can to help small businesses because without them, there will be no recovery. It is not the large businesses that are going to create these jobs. They are going to contract. They are going to redesign themselves. They are going to contract until things are safe. They are going to poke their head out of that shell when the way is clear. The people who are going to run out in the line of fire are the small businesses these people represent. They are the ones who are going to say: No, I am not going down. I am going to hire. I am going to keep moving forward because I know my idea is good or because I know when we come out of this recession, I will be able to make it. These are the people on whom we will build this recovery, and these are the people who need help today. We don't need to study it for 10 years or look at it for 5 years. These organizations represent the millions of businesses that need help today. So on behalf of this coalition, I think the facts are on our side.

This is not an anti-credit card company amendment, this is a pro-small business amendment. I know people have to make money. Everybody has to make money. And everybody is trying

to do what they can. But there is no excuse right now, when small businesses have to rely—as I said, 60 percent of our small businesses—and this is an average. In some States, it probably could be up to 70 percent of small businesses. In some States, maybe it is below 50 or 45. But it is still a significant number of businesses using credit cards to help finance their business. Let's give them a little help today.

So I move to call up and I ask for the yeas and nays on amendment No. 1079. I further move to table the amendment.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Madam President, I withdraw the request, and I ask for regular order on amendment No. 1079.

The PRESIDING OFFICER. The amendment is now pending.

Ms. LANDRIEU. Madam President, in order for me to get a vote on this amendment, I am going to have to ask for the amendment to be tabled. I would like to ask for the amendment to be tabled. Of course, I will be voting not to table it and will be asking for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

At the moment, there is not.

The motion to table is not debatable. Those in favor, say aye.

Ms. LANDRIEU. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Ms. LANDRIEU. Madam President, at this time I would like to remove my motion to table amendment No. 1079, but I would like it to remain pending.

The PRESIDING OFFICER. The motion to table is withdrawn.

Ms. LANDRIEU. I understand the amendment will still be pending. But when cloture is invoked, unfortunately, this amendment is going to fall because it is not germane to the bill so we will not be able to have a vote on this amendment, which was my hope. But because of time constraints and because of the difficulty of getting Members to the floor for the procedures that we would have to go through to have a vote, I am happy to report that the chairman of the committee has agreed to allow our committee, Small Business, to have jurisdiction over this matter.

We will, in the next few weeks, be putting together a bill on the Small Business Administration Reauthorization, which we have to do by matter of course and responsibility. I appreciate Senator DODD agreeing to acquiesce to allow our committee to have jurisdiction over this narrow matter. I intend, with the help of my ranking member, Senator SNOWE, and the help of, I hope, the vast majority of the members of our committee, both Democrats and Republicans—I hope we will stand together to present at that time legislation that can provide real relief to small businesses that need all the help they can get.

We are not asking for artificially low rates to be set. We are not asking to tie credit card companies' hands in the event that small businesses renege on their payment plans or are late paying. We are just saying, if you are a business operating out there and you have paid your bills on time, you are paying your credit cards, you are meeting your obligations, that your rates cannot arbitrarily be raised.

We understand transactions and contracts between business people. This is not the Government stepping in to try to negotiate. This is simply a level playing field between consumers and small businesses.

Again, because 69 percent of businesses in America today depend on credit cards to finance their operations, I am here to say, and our committee will be back saying to the Members of the Senate, we must get our eyes on small business, on their access to credit, on their ability to survive so this recovery can take root, and we can create the kinds of jobs that will be necessary.

I am sorry because of the time constraints and the unwillingness of some here to be cooperative. But I thank the chair of the committee, Senator DODD, for allowing our committee to have jurisdiction. I can promise, as the chair of that committee, this amendment will be on the bill when our bill comes to the floor for consideration and we will get a vote. If people want to vote against our amendment—something may not be exact—fine. Let them vote against it. But I want the record to be clear that there are a number of Members of the Senate, hopefully a majority, who believe the same protections extended to consumers for their credit cards would be extended to businesses in America, small businesses—those with 50 employees or less—with at least a $25,000 limit on their credit card. It is not going to be every business in America that will get covered, but it is the small businesses that are having the most difficult time.

I yield the floor.

Ms. SNOWE. Madam President, I rise today to join my good friend Senator LANDRIEU, the chair of the Senate Committee on Small Business and Entrepreneurship, on an amendment addressing a key deficiency in the Dodd-Shelby substitute, or Credit Card Accountability Responsibility and Disclosure—CARD—Act, currently pending before the body.

I congratulate Senate Banking, Housing, and Urban Affairs Committee Chairman DODD and Ranking Member SHELBY for their stalwart efforts to bring this critical bill to the floor to protect consumers from credit card abuses. However, as drafted, the measure would leave small businesses out in the proverbial cold. Accordingly, the amendment we are filing today would extend the protections in both the Truth in Lending Act as well as the bill we are considering today to any credit card used by the 26.6 million small businesses with 50 or fewer employees. I would like to thank Senators BROWN, CANTWELL, COLLINS, CARDIN, INOUYE, KLOBUCHAR and SHAHEEN for cosponsoring our amendment.

Although we will undoubtedly debate how broadly they should be written, the provisions the CARD Act contemplates would provide vital safeguards to consumer credit cards. No longer could credit card companies arbitrarily raise interest rates on outstanding balances at any time for any reason or increase them on future purchases without sufficient notice. Unbelievably, the Pew Charitable Trusts in its report, Safe Credit Card Standards, found that ''93 percent of cards allowed the issuer to raise any interest rate at any time by changing the account agreement.'' Should they choose to carry a balance, once this bill is enacted into law, people will have certainty with respect to how much interest they will pay on their purchases and will not go to bed one night thinking they have a 10-percent rate only to wake up facing a 32-percent rate.

Additionally, this bill will prevent credit card companies from engaging in other abusive practices, such as ''two-cycle'' billing whereby a company assesses interest not only on the balance for the current billing cycle, but also on the balance for days in the preceding billing cycle. Moreover, the bill before the Senate will put an end to schemes that allow credit card companies to apply the entirety of a payment to balances with the lowest interest rates and, thereby, help families, which today have an average credit card balance of nearly $10,700 and are struggling to stay afloat, emerge from a vicious cycle of debt. Finally, we will ensure that customers have 21 days to pay a bill once it is sent so that they have sufficient time to make a payment.

While this legislation would take great strides to shield consumers from abusive practices, it does not extend these safeguards to our Nation's small business owners who use credit cards to purchase goods and services, make payroll, and ultimately create 75 percent of this Nation's net new jobs. The fact is according to the National Federation of independent Business'—NFIB's—Access to Credit poll published in 2008, 85 percent of small business owners have one or more credit cards that they use for business purposes. NFIB data also revealed that 74 percent of small business owners use at least one business credit card, while 39 percent use at least one personal card.

Yet the bill before the Senate amends the Truth in Lending Act, which applies only to ''consumer'' transactions

that are defined as ''one in which the party to whom credit is offered or extended is a natural person, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes.'' The measure does not protect our Nation's small business owners—many of whom, as I just mentioned—utilize credit cards to finance routine transactions.

First and foremost, the protections in the bill would not extend to entrepreneurs who make purchases for their enterprises using a small business credit card. Even more troubling is that, in many cases, the small business credit cards are, like consumer cards, issued based on the personal credit history of the card holder. Thus, although the two types of cards are in many instances indistinguishable, two different sets of rules and protections can apply.

Second, and although there is some debate among experts on this point, there is concern that the safeguards in the CARD Act may not apply if an individual made a significant amount of business purchases on a consumer credit card. The reason is that the Truth in Lending Act only protects purchases made on consumer cards primarily for personal, family, or household purposes, and it is unclear at what point businesses purchases would cease to qualify for protections if made on consumer credit cards. To protect small businesses with 50 or fewer employees, the Senate should clarify that purchases made on behalf of an enterprise using a consumer card will receive the protections in this bill.

Omitting 26.6 million of this Nation's job-creating small businesses from credit card protections could have extremely serious consequences, particularly at a time in which we are counting on our small employers to lead us out of the most devastating economic recession since the Great Depression. Indeed, as Todd McCracken, the president of the National Small Business Administration, NSBA, testified on March 19 before the Senate Committee on Small Business and Entrepreneurship, on which I serve as ranking member, the credit card companies are abusing small firms. In fact, Mr. McCracken wrote in his testimony, ''Imagine trying to run a business when one's carefully-constructed business plan is upended by a retroactive interest rate hike. How can a small-business owner be expected to maintain—let alone grow—her business when the capital she has already used is no longer subject to the 12 percent interest rate she agreed to but an egregiously punitive 32 percent?''

These abuses are not just isolated incidents; they really do occur. To quantify what small businesses are facing, the NFIB's Credit Card survey found that excluding cases involving an introductory offer, 20 percent of small business owners saw the interest rate on their outstanding balances increased at least once. Furthermore, 25 percent of small businesses were given less than three weeks notice to make a credit card payment on at least one occasion, providing compelling evidence that action must be taken.

I would also like to mention that other survey results bolster the NFIB's conclusions. For example, the NSBA's 2009 Small Business Credit Card Survey found that 57 percent of small business owners reported receiving their bill too close to the due date to mail it and have it be received on time. Incredibly, 33 percent of respondents reported receiving their credit card statement after its due date! That practice is simply outrageous, and it must be stopped!

To ensure that small businesses are not shortchanged and are adequately protected, the amendment Senator LANDRIEU and I are offering today would amend the definition of ''consumer'' in the Truth in Lending Act to include any small business having 50 or fewer employees. Accordingly, our amendment would have two beneficial effects:

First, it would extend all of the safeguards in the bill before us to small businesses with 50 or fewer employees regardless of whether they use a consumer of business credit card to make purchases. Small businesses would, therefore, be free from worries about any time interest rate increases and other abuses from which Americans have suffered from for far too long.

Second, the bill would extend protections already included in the Truth in Lending Act to small businesses. As a result, irrespective of whether they use a consumer or business card, our small firms would now be entitled to receive meaningful disclosures that will enable them to understand the terms of credit being offered and to compare one credit product to another. Such required disclosures include the finance charge, annual percentage rate, any charges that may be imposed, and a statement of billing rights. Our entrepreneurs should be focused on creating jobs instead of having to try to navigate very complicated credit card terms that are buried in fine print.

America's small businesses—the engine that drives our Nation's economy—deserve to be protected from potential credit card abuses that could cripple their operations. Their business plans should no longer be subject to the whims and arbitrary rate increases of the credit card companies.

In closing, I am pleased to report that the following organizations have endorsed the Landrieu-Snowe amendment: the National Federation of independent Business, National Small Business Association, American Beverage Licensees, American Society of Travel Agents, Center for Responsible Lending, Consumer Action, Consumer Federation of America, Dēmos: A Network for Ideas & Action, Food Marketing institute, National Association of College Stores, National Association for the Self-Employed, National Association of Theatre Owners, National Community Reinvestment Coalition, National Consumer Law Center, on behalf of its low income clients, Petroleum Marketers Association of America, Service Employees International Union, U.S. Hispanic Chamber of Commerce, U.S. PIRG, and the U.S. Women's Chamber of Commerce.

I ask my colleagues to join us and the groups I have just mentioned to support this targeted and commonsense amendment that would allow entrepreneurs to focus on what they do best; namely, creating new jobs.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. UDALL of New Mexico. Madam President, I thank Chairman DODD for his hard work on this legislation. He deserves a great deal of applause and congratulations for putting the issue on Congress' agenda and for producing a very strong bill.

Nobody in this body or in this country needs to be told about the effect of subprime mortgages on America's families. We have seen the impact that unsustainable mortgage debt has had on our economy, and we know the pain it has caused. But while mortgage debt grew by 200 percent over a quarter century, credit card debt grew by more than 350 percent. Studies suggest that credit card debt plays an even larger role than mortgages in causing personal bankruptcies.

Even the explosion in mortgage debt has a lot to do with credit cards. Many Americans took predatory mortgages because they needed a way out of the massive credit card debt. A mortgage might have done them in, but their story started with a credit card.

Credit card debt is more than an economic issue, it is a families issue and a children issue. The explosion in credit card debt has taken a toll on all Americans, but children have been hit the hardest. In 2004, families with minor children were more than three times as likely to file for bankruptcy as their childless friends, and more children lived through their parents' bankruptcy than their parents' divorce.

We know bankruptcy has a devastating impact on families. Children in bankrupt families lose the comfort of a stable home. They can lose their ability to go to college. They might even lose more. Credit counselors report that families struggling with excessive debt are more likely to experience domestic abuse.

The explosion in credit card debt in this country was not the result of reckless spending by American families. Family spending on luxuries is roughly what it was 30 years ago. The face of debt in this country is not an irresponsible teenager but is a mother in over her head. Nor is our debt problem simply a matter of supply and demand. American consumers have not suddenly decided they liked high fees, harsh penalties, and skyrocketing interest rates. These expensive provisions are hidden in the fine print of card applications mailed to vulnerable communities.

Card companies call this outreach. I call it deception.

The reforms we are considering will not disrupt the system. They cannot stop credit card companies from providing credit. Any company that wants to help consumers live within their means has nothing to fear from this legislation. Any company that wants to offer a service to American consumers has nothing to fear. But if you are planning to mislead consumers, this bill will stop you. If you are planning to offer low rates and charge high ones, we will stop you. If you are planning to trick customers into paying fees and penalties, we will stop you. If you are planning to profit from the misery of American families, we will stop you. Frankly, it is about time.

Before I close I wish to quickly address an amendment offered by the senior Senator from Colorado. The amendment requires that Americans requesting their credit report also receive their credit score. For 6 years, credit agencies have violated the intent of Congress by failing to provide this information. Legislation passed 6 years ago required them to provide one credit report each year for free, but these credit reports do not have to include the one piece of information that is crucial and easiest to understand—the customer's credit score. The Mark Udall amendment will help Americans manage their credit without burdening credit agencies or anybody else. It is a good idea. I support it. I encourage all my colleagues to support it.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. PRYOR. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

AMENDMENT NO. 1124

Mr. PRYOR. Mr. President, I rise to offer my support for the amendment on usury from my colleague from Arkansas, Senator LINCOLN. As some of you know—not all but some of you—Arkansas has a very strict usury limit in its State constitution, and it is been there for a long time. In fact, it used to be even more restrictive. Back in the 1980s, the people went to the ballot box, and they changed the constitution and made it much less restrictive than it was originally, but it is still very restrictive by national standards. But what has happened nationally has changed things in Arkansas and put Arkansas at a disadvantage.

I know there have been bills here like the Gramm-Leach-Bliley Financial Modernization Act in 1999. I know it was well intentioned. I know there were good reasons, good national reasons and good financial reasons and a lot of good reasons to do that. However, what that act did is it preempted the Arkansas State Constitution by permitting in-state banks to charge the same rate of interest as the home State of any out-of-State bank that has a branch in that State. It was not specifically designed for or against Arkansas, but it was in the bill, it was in the law, and it has been the law since 1999. What that did is it, in effect, nationalized the usury rate for banks. Arkansas banks can now charge a higher interest rate than they could before Gramm-Leach-Bliley.

The injustice occurs when you look at the lending institutions that are not banks—maybe the State Student Loan Authority, maybe captive finance companies, maybe other types of lenders that are not banks. What has happened is it has worked a hardship, and some of those lenders cannot do business in Arkansas; they cannot afford to. So many small businesses, family-owned businesses such as car dealers and furniture retailers, cannot finance their goods to Arkansas consumers. The Arkansas consumer, if they can do it, maybe goes to a bank or a credit union or some other lending institution, in many cases paying a pretty high interest rate in order to get the money to do business. This hurts the Arkansas business community. It hurts the Arkansas economy.

Right now, what has happened is, given the stimulus bill—there are many financing tools in the stimulus bill for constructing roads and schools, for building renewable energy projects, the Build America Bonds, et cetera. But Build America Bonds are not available in our State because of the lack of competitiveness in the bond market. Again, it is our interest rate.

Given the financial times we are in, we find we are put at a disadvantage. No one intended this. Congress never did, the White House never did, the Congress back in 1999 did not want this to happen. But it is where we find ourselves today.

The people of Arkansas have once again decided to put this issue on the ballot, and they are going to do it. It has been referred out to the people. The legislature made that decision. It is on the ballot. The problem is, it is not until November 2010. So we have a year and a half to try to struggle through this economy with this very difficult, very adverse usury limit in our State.

What we are asking, what Senator LINCOLN and I are asking, given this amendment, is that we get temporary relief only through November 2010. This is just about an 18-month fix, to give us some relief during this time, get the credit flowing in our State the way it has been able to flow in other States, and let us take advantage of the stimulus bill, the stimulus package, the America Recovery Act we have already passed, that we all benefit in certain ways, to let us in the State of Arkansas have the full benefit. The Governor supports this, and members of the legislature support this. They have asked us to do this for the people of the State of Arkansas.

People need to understand what this amendment will do. It will permit the current interest rate not to exceed—once this is passed, the interest rate cannot exceed 17 percent. We are not talking about taking the usury rate completely out of our State law; we are talking about giving us some temporary relief, up to 17 percent. Again, when it comes to some of the financing vehicles, such as student loans and bonds of various types, this is crucial to letting investment happen in our State.

There is precedent for this. Congress enacted, several years ago, laws that preempted Arkansas' usury provision for, as I mentioned before, the banking industry and for some other businesses. So we have done this before. Again, I am not sure those laws just affected Arkansas; they probably affected a lot of States. But basically, right now Arkansas is the only State left that needs some relief under the current situation in which we find ourselves.

The way it works right now, to let you all know, in our State, the limit for usury—an interest rate in our State is 5.5 percent. And 5.5 percent is a very low rate. It is a historically low rate. But it is because the Fed rate and some of the other things have gone so low. Our rate is tied to those Fed rates, those national rates. Again, in a good economy, in most years that makes sense, but right now it does not.

So what Senator LINCOLN and I are respectfully asking our colleagues to do is support her amendment, allow it to become law, allow Arkansas this temporary relief, not just to benefit from the stimulus bill we have already passed but also to benefit from—or at least find some relief in this very tight economy, to ease some credit in our State, to help the recovery in our State as we are hoping to find in every other State in the Union.

With that, I ask that when we do vote on the Lincoln amendment, we would all support it and that we would help relief come to all 50 States, not just 49 States. Again, this is temporary. It caps the interest rate at 17 percent, which by most standards is a very reasonable cap. It is something that will allow the credit to flow in our State and will allow student loans, the Build America Bond Program to have the full effect they need to have here in Arkansas.

With that, I thank my colleagues for their attention.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senators CORKER, CASEY, GRASSLEY, KERRY, LEVIN, MENENDEZ, and KOHL, to speak about our amendment to strengthen the underlying bill's protections for young consumers, and help

address the growing problem of college student indebtedness.

During this severe economic crisis and credit crunch, many Americans—especially college students with limited incomes—find themselves relying on credit cards more than ever before.

Our amendment will place commonsense restrictions on credit card marketing to college students; provide for increased transparency in university marketing deals with credit card issuers; and, protect students from some common credit traps.

This amendment achieves four essential objectives. It will: (1) prohibit credit card companies from offering gifts to students in exchange for completing credit card applications; (2) require universities to publicly disclose marketing agreements made with credit card issuers; (3) require credit card companies to report how much money they are giving to schools and alumni associations through these agreements, and what they receive from the universities in exchange; and, (4) call upon the Government Accountability Office to study the extent of these deals and their impact on student credit card debt.

The growing reliance of college students on credit cards, and the staggering credit card debt that many students accumulate by the time they graduate, underscores the need for this amendment.

According to a report released earlier this year by Sallie Mae: 84 percent of all undergraduates have at least one credit card; the average student has more than four credit cards; 9 out of 10 college students use credit cards for direct educational expenses, and 30 percent charge some tuition to their cards; the average balance for these students is $3,173—and 82 percent of college students carry a balance each month which requires them to pay finance charges. Nearly one in five college seniors hold $7,000 or more in credit card debt.

A study by U.S. Public Interest Research Group found that college students' credit card balances have soared 134 percent in the past 10 years.

The study also found that 76 percent of college students reported stopping at a table on or near campus advertising credit cards, and that nearly a third of students were offered a free gift in exchange for signing up.

Credit card companies lure cash-strapped students with all kinds of offers. Free food. T-shirts—the most-common inducement. Frisbees. Candy. Even iPods. All for filling out a credit card application.

More than a dozen States currently restrict credit card marketing on college campuses.

In California, credit-card marketers can't lure students with free gifts; in Oklahoma, colleges can no longer sell student information for credit-card marketing purposes; and, in Texas, on-campus credit-card marketing may only occur on limited days in certain locations.

With credit card companies aiming their marketing more and more at students, we are seeing colleges and universities increasingly entering partnership agreements with these companies.

These agreements produce millions in revenue for colleges and universities, while banks get exclusive marketing access and student contact information.

As State funding shrinks for public universities, such deals grow.

We don't know much about the agreements between credit card companies and universities. But we do know that schools often receive large cash payments in exchange for providing students' personal information, including permanent addresses, e-mail addresses and phone numbers.

This enables companies to target students with precision.

Some contracts even pay universities if students have a balance on the card after 12 months, which suggests some universities stand to profit from the debt carried by their students.

The sheer scale of these contracts is astounding: Michigan State has an $8.4 million contract with Bank of America; and, the University of Tennessee has a $10 million contract with Chase.

Bank of America has agreements with nearly 700 colleges and alumni associations.

Virtually every major university boasts a multimillion-dollar affinity relationship with a credit-card company.

It is vital that schools make these agreements public.

Colleges should not encourage their students to sign up for products with high interest rates and fees that could get them bogged down in debt.

These arrangements can get students, who are just starting out, into deep trouble that can stay with them for decades.

This is shameful.

The underlying bill provides much-needed safeguards for young consumers, who too often do not have the financial knowledge and experience to manage their credit wisely.

I commend Chairman DODD and Ranking Member SHELBY for their leadership in crafting this well-balanced legislation.

Under this bill, issuers are required to obtain a cosigner or income verification for anyone under age 21 that applies for a credit card.

And, prescreened offers of credit to young consumers under age 21 will be limited.

Issuers also will not be allowed to increase the credit limit on accounts where a cosigner—such as a parent or guardian—is liable unless the cosigner authorizes the increase.

These provisions will play an important role in protecting college students, and all young consumers, from deceptive practices.

Our amendment will enhance these protections.

Developing good credit is essential, and it is difficult to develop good credit without holding credit cards.

When used responsibly, credit cards are convenient, and provide purchasing power that otherwise may not be available.

But many students begin using credit cards with highly unfavorable terms, and end up ruining their credit.

Shining a light on the agreements between universities and credit card issuers not only makes good sense. It may also act as a deterrent to deals with highly unfavorable terms for students.

Parents, students and the public should be aware of what kind of deals are in place and why they exist.

Also, this amendment will address the incentive of the free gift for signing up for a credit card. Too often, students sign up for credit cards to receive a free gift, and then have difficulty canceling the card, or may face hidden fees and charges.

I urge my colleagues to join us in putting in place these commonsense restrictions to protect college students across this Nation.

Mr. President, I would like to say a word about the minimum payment disclosure provisions in this bill.

When we considered the Bankruptcy Abuse Prevention and Consumer Protection Act in 2005, we said that our goal was to balance fairness, and responsibility. I agreed with this goal, but in the end, I voted against the bill because I did not believe it achieved that balance.

Since that time, I have continued to say that we need to do more to protect Americans from abusive credit practices and to ensure that consumers have the information they need to make good, informed financial decisions.

In every Congress since 2005, I have introduced a bill to require credit card companies to disclose what the real financial effects are when a consumer makes only the minimum monthly payment on her credit card balance each month.

I am very pleased that Senators DODD and SHELBY have included similar provisions in the credit card bill that we are considering today.

The bill requires that all credit card statements include a general warning about the effects of making minimum payments, personalized information showing a cardholder exactly how much it will cost and how long it will take to pay off their balance if they make only the minimum payment each month, and a phone number that consumers can call to get a reliable credit counseling referral.

I am confident that these warnings will make a significant difference for consumers.

I think we are all familiar with minimum monthly payments—this is the amount listed at the top of your credit card statement that you have to pay each month to avoid a fee.

What people are less familiar with though, is the effect of these minimum payments.

Let me give you an example. In November 2008, according to USA Today, the average American had $10,678 in credit card debt.

Now let's take a family holding that amount of debt at this week's average interest rate of 10.78 percent. If that family consumer made only a 2 percent minimum payment on their bill each month, it would take them over 28 years and a total of $19,144 to pay that card off. And that is assuming they didn't ever charge another penny to the card—no cash advances, no gas purchases, no trips to the mall.

In the end, the consumer would have paid $8,466 in interest on slightly over $10,000 in debt.

And 10.78 percent is a relatively low rate for many Americans. Interest rates around 20 percent are not uncommon, and penalty interest rates can reach as high as 32 percent.

Consumers need to know how these amounts add up.

Let me tell you one more troubling thing about minimum payments. In December, the Economist reported on a study done on these requirements.

In the study, a psychologist at a British university gave 413 people fake credit card bills. All of the bills said the person owed about $650 total, but half of them listed a minimum payment of around $8. The other half made no mention at all of a minimum payment.

What the study found was that when the minimum amount was listed, people were inclined to pay less of their total bill. In fact, among people who chose not to pay their full balance, people paid 43 percent less when they saw a minimum payment amount on their bill.

Behavioral economists describe this as a ''nudge'': By showing the minimum amount, the statement ''nudged'' the consumer to pay less than he or she would have otherwise.

Now obviously, this is good for the credit card company—the consumer ends up paying less each month but more in interest over time, and that's how the credit card companies make their profits.

But this is terrible for consumers, who can end up underwater, with huge balances owed, and not understand how they got there.

People need to know the effects of making minimum monthly payments, and this bill will finally require credit card companies to show them.

I believe the disclosure requirements in the bill will go a long way toward helping consumers make good financial decisions and helping them to avoid ending up in bankruptcy. So I want to commend my colleagues, Senator DODD and Senator SHELBY, for their hard work on the bill before us today. These warnings have been a long time in coming, and I will be very pleased to see them enacted into law.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that no further amendments be in order, except a managers' amendment, which has been cleared by the managers and leaders, and that at 10 a.m. Tuesday, May 19, the Senate resume consideration of H.R. 627, and proceed to vote on the motion to invoke cloture on the Dodd-Shelby substitute amendment No. 1058; that if cloture is invoked on the substitute amendment, then the Senate proceed to consider any pending germane amendments; that upon disposition of those amendments, all postcloture time be yielded back; the substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate then proceed to vote on passage of the bill; that the cloture motion with respect to H.R. 627 be withdrawn.

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

FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to S. 386, the Fraud Enforcement and Recovery Act.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 386) entitled ''An Act to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes'', do pass with amendments.

Mr. LEAHY. Mr. President, today, the Senate has passed the bipartisan Fraud Enforcement and Recovery Act of 2009, S.386. This bill will soon be sent to the President to be signed into law. The House passed this bill overwhelming just last week. This bill is a major step toward holding accountable those who have caused so much damage to our economy. It will also help protect our economic recovery efforts from the scourge of fraud.

Our bill will strengthen the Federal Government's capacity to investigate and prosecute the kinds of financial frauds that have so severely undermined our economy and hurt so many hard-working people in this country. These frauds have robbed people of their savings, their retirement accounts, their college funds for their children, and their equity and have cost too many people their homes. The bill will help provide the resources and legal tools needed to police and deter fraud and to protect taxpayer-funded economic recovery efforts now being implemented.

I want to once again commend Senator GRASSLEY, our lead cosponsor, for his leadership at every stage in this process. He helped to write this legislation and to manage it on the Senate floor, where it ultimately passed 92 to 4. He also worked tirelessly to make important and difficult compromises with Senate and House leaders, which was crucial to crafting a consensus a bill that could pass both Houses. He has once again proven his dedication to protecting taxpayer funds by deterring, investigating, and prosecuting fraud.

I thank Majority Leader HOYER and the House leadership, as well as Chairman CONYERS, Ranking Member SMITH and Congressmen BERMAN and SCOTT on the House Judiciary Committee, for working with us to promptly pass this bill in the House with minimal changes and a number of helpful additions. The new ranking member of the Senate Judiciary Committee, Senator SESSIONS, was also very important and supportive in those negotiations.

I thank our many cosponsors for their steadfast support for this effort. Senators KAUFMAN and KLOBUCHAR have worked particularly hard to ensure that this important fraud enforcement bill becomes law, and I thank them for their efforts. Senator KAUFMAN has spoken and written about the need for fraud enforcement all year. We have been joined by a growing bipartisan group of cosponsors that now stands at 28. And I thank our majority leader and our underappreciated cloakroom and floor staff for all that they have done on this bill.

Mortgage fraud has reached near epidemic levels in this country. Reports of mortgage fraud are up 682 percent over the past 5 years, and more than 2800 percent in the past decade. And massive, new corporate frauds, like the $65 billion Ponzi scheme perpetrated by Bernard Madoff, are being uncovered as the economy has turned worse, exposing many investors to massive losses. We can now finally take action to better protect the victims of these frauds. These victims include homeowners who have been fleeced by unscrupulous mortgage brokers who promise to help them, only to leave them unable to keep their homes and in even further debt than before. They include retirees who have lost their life savings in stock scams and Ponzi schemes, which have come to light as the markets have fallen and corporations have collapsed. They also include American taxpayers who have invested billions of dollars to restore our economy, and who expect us to protect that investment and make sure those funds are not exploited by fraud.

This legislation will immediately give Federal law enforcement agencies the tools and resources they need to combat fraud effectively. In the last 3 years, the number of criminal mortgage fraud investigations opened by the Federal Bureau of Investigation,