

want to protect the homes and the built structures and people who live in those areas. The exchange would reduce costs related to forest boundary maintenance as well as provide better service to the residents of the fire district, neighbors of the district, and individuals who travel through.

I appreciate the patience of my colleagues. The point I wish to make is, we had tens and tens of bills in the Energy and Natural Resources Committee that this body should have considered. It would have been important to give these commonsense bills an up-or-down vote. Almost all of them were bipartisan in nature. It is a disappointment to me that we have not done the will of the people in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

THANKING SENATE PAGES

Mr. DURBIN. Mr. President, I am sorry they are not on the floor at this moment, but I rise to give special recognition to two Senate pages who have stayed here while all the others have gone home for Christmas. These two pages have been working hard today to keep up with the Senate's very busy schedule:

Rachel Bailey, 16 years old, from Glendale, MD. Mom and dad are Susan and Karl. She is working late today as a Senate page. We thank Rachel so much.

Jarrod Nagurka, 16 years old, from Arlington, VA. His mom and dad are Pamela and Stuart.

Even though they aren't on the floor and they are running around here busy, they can look in the CONGRESSIONAL RECORD and realize that Senators of both political parties appreciate their dedication to this institution during this holiday season.

IN SUPPORT OF THE 9/11 HEALTH AND COMPENSATION ACT

Mr. DURBIN. Mr. President, 100 years ago today, there was a horrible fire in the stockyards of Chicago. Most of us have our vision of that era and the stockyards from Upton Sinclair's book "The Jungle," which told of the life of a Lithuanian immigrant family working in the stockyards. It was one of the busiest commercial ventures in the United States, and it literally fed the Nation. But it also engaged in practices acceptable at that time which would be unacceptable by today's standards of health and safety.

That day of December 20, 1910, there was a fire. As a result of that fire, 100 years ago today, 21 firefighters lost their lives at the union stockyards in Chicago. Until the collapse of the World Trade Center towers on 9/11, no single disaster in the history of the United States had claimed the lives of more firefighters.

Sadly, today, in a cruel irony of history, there has been another fire in

Chicago. This morning we lost two firefighters who went out in the bitter cold and did their best to fight a fire. A wall collapsed on them, as it did 100 years ago. Two lost their lives, and 14 were seriously injured. It is a sad reminder to all of us who drive by firehouses and fire stations all the time and see the men and women who work there, that when they are called to duty, they can give their lives at a moment's notice. It happened this morning in Chicago. It happened 100 years ago in the same city. It can happen again.

I am glad that earlier today we finally worked out an agreement on the so-called 9/11 Health Compensation Act, the James Zadroga 9/11 Health Compensation Act. The extraordinary efforts for passing that have to be recognized. I will, of course, acknowledge the two Senators from New York, KIRSTEN GILLIBRAND and CHARLES SCHUMER, who worked tirelessly to get it passed. They would acknowledge the contribution of our majority leader, HARRY REID, who stepped in and made this process work when it looked like it had failed several times. MIKE ENZI, on the Republican side, TOM COBURN from Oklahoma, all worked together and came up with a good bill. The 9/11 Health Compensation Act is going to help many around the United States. I just learned this week it can help one person in Chicago.

Arthur Noonan is 1 of the 188 responders and 86 survivors living in Illinois and enrolled in the World Trade Center health registry. I wish to thank the Chicago Sun Times for telling his story. He is a 30-year veteran of the Chicago Fire Department, spent hundreds of hours volunteering at Ground Zero in those critical days and weeks after the terrorist attack. Mr. Noonan, a firefighter from Chicago, worked in a line passing buckets of debris from Ground Zero, searching for human remains and clothing. He remembers the thick dust that coated everything and the sickly sweet smell. Noonan and other volunteers were given respirators, but the filters clogged up after a few minutes. They worked without masks after that. A few years after the cleanup, Mr. Noonan contracted leukemia. He applied for health benefits through the victims compensation fund and submitted medical documents to substantiate his claim, but his claim was filed 2 weeks too late.

Mr. Noonan said at first he was hesitant to file a claim because he "never got anything for nothing." He says he has always worked two or three jobs. I talked to him on the phone just a couple days ago. What a classic Chicago story. Here is a man, a proud firefighter, now in retirement, battling leukemia successfully, who still says: I don't want anything for nothing.

I said: So what are you worried about?

Well, I am worried because I have a cap on my health insurance of 1 million bucks, and I have already spent \$750,000 on my leukemia. I am worried I will just run out of health insurance.

That is a concern, a concern that can be addressed by this bill. If his leukemia can be tracked to his experience at Ground Zero, we certainly want to make certain he receives the medical care he needs.

Stanley Silata is another Chicago firefighter who applied for health assistance but was told his application was too late. He participated in search-and-rescue missions at Ground Zero and put out fires. Similar to so many other firefighters who were on the lines those days, Mr. Silata developed serious respiratory problems. He has had to have medical treatment since 2004. Mr. Silata's claim for assistance was submitted, unfortunately, 2 weeks after the deadline. We are hoping this bill will provide him some protection as well. The stories go on and on. But as we are reminded from the deaths in Chicago today, the firefighters who responded to this fire, the men and women who responded at Ground Zero, carried a servant's heart into one of the most dangerous places on Earth. They literally risked their lives in the hopes that they could save others or at least bring some compensation and some consolation to the families who had suffered these losses.

They deserve nothing less than our gratitude and our help, our help in enacting this 9/11 health compensation bill. I believe the House of Representatives will be considering this today. I hope it is signed very quickly by the President.

INTERCHANGE FEES

Mr. DURBIN. Mr. President, I wish to speak briefly about interchange fee reform, an issue I have worked on for many years and an issue which was taken up just recently last Thursday when the Federal Reserve considered legislation we passed in the Senate and House of Representatives and sent to them to establish regulations. It was an effort to bring reasonable regulation to a \$20 billion annual debit card interchange fee system industry.

The Federal Reserve released draft regulations that will implement the new law Congress enacted. Back in May, when the Senate was debating the Wall Street reform bill, I offered an amendment. I am honored that 64 Senators voted for it, including 17 Republicans. It was a bipartisan success. It is now the law of the land. The Federal Reserve is moving forward to make sure our law is implemented in a fair way.

The Fed announced, according to their investigation, it costs the banks between 7 and 12 cents to process a debit card transaction. But the Fed reported that big banks and card networks charge merchants, retailers, charities, universities, and others an average debit interchange fee—not 7 to 12 cents—of 44 cents. The Fed has confirmed what consumers and retailers long suspected. They are being overcharged and gouged for each purchase

made with a debit card. Merchants and their customers are being charged more than three times what the transactions cost.

In the old days, if you paid by check before debit cards, the fee for processing the check was pennies, regardless of the face amount of the check. Now the debit card fee is 44 cents—three, four, five, six times more than the cost actually incurred by the banks because of the transaction.

The draft regulations released propose to cap the interchange fees at the largest banks at 12 cents per transaction, give or take some conditions such as the prevention of fraud, which we built into the law. With the 12-cent cap, we could save businesses and consumers across the United States about \$10 billion in the first year. Imagine what \$10 billion will mean to a restaurant, a shop. Think of what it means to universities and other charities that collect through the use of debit cards—more money for them to use, more profitability, and that could lead to more employment and better business outlooks.

At this point, I am hunkered down and ready for the fight that is coming. The biggest banks and credit card companies are going to do their best to influence the Federal Reserve to raise this interchange fee as high as possible, but we know what the reasonable costs are. We know these credit card companies and the big banks have been overcharging for years. Every time a credit or debit card sale is made, Visa and MasterCard take a cut of the transaction. Some of this cut they keep, but most of it is routed along to the bank that issued the card. This fee that goes to the card-issuing bank is the interchange fee, also known as a swipe fee. It skims an average of 1 to 3 percent off the top of every transaction. An estimated \$48 billion in credit and debit card interchange fees were collected in 2008, around \$20 billion from debit cards.

These fees come out of the pockets of everyone who accepts cards—merchants, small businesses, charities, and government agencies—and the costs are passed on to consumers.

Every bank says they need to charge fees to help pay for the cost of processing card transactions and fighting fraud. That is fair enough. But the banks do not set their own interchange fees. There is no competition here.

Some of my Republican colleagues, who supported my efforts said we did not want to go this far to give the Federal Reserve this authority. But there is literally no competition when it comes to credit and debit cards. That is why the government has to step in. That is why we think the Federal Reserve is moving in the right direction.

Go look at any bank's Web site and look to see how much that bank charges in interchange fees. You won't find anything.

Why? Because for years, the banks have enjoyed a cozy scheme where they

let Visa and MasterCard fix the interchange fee rates that each bank receives.

This means banks do not have to compete with one another. They all receive the same fees no matter how much a particular bank actually spends to process transactions or to prevent fraud.

The current interchange system is a price-fixing scheme. Visa and MasterCard set the fee rates that thousands of banks receive. Efficient banks and inefficient banks receive exactly the same fees.

And Visa and MasterCard have so much market power over 75 percent of the market—that they can raise rates whenever they want to and tell merchants to take it or leave it.

Merchants have no choice but to take it, because now over half of all retail transactions take place with cards. They can't say no.

It is easy to see that the banks and card companies set up this interchange scheme. It benefits the banks that receive high fees and don't need to compete with each other or negotiate with merchants. And it benefits Visa and MasterCard, because they get their own network fee each time a card is swiped, and high interchange fees mean more banks will issue more cards.

But the system is unfair to merchants and to consumers in the United States. They have to pay billions per year in these fees with no negotiation and no competition.

The interchange amendment that I offered—and that is now law reins in these abusive fees.

My amendment did several things.

First, it said that if the big banks are going to let Visa and MasterCard fix fees on their behalf, the Federal Reserve should regulate those fees.

The amendment said that any debit interchange fee that is set by a card network and passed along to a big bank must be regulated by the Fed to ensure that the fee is reasonable and proportional to the actual cost of processing the transaction.

If a bank wants to charge its own fees to reflect the costs it bears, so be it. My amendment does not regulate that, and as long as those fees are transparent and competitive, I am fine with it.

But if the banks all get together and decide to let Visa and MasterCard fix fees for them, that is where my amendment steps in.

We know that banks today receive far more in interchange than it costs them to do debit transactions. They use their excess interchange subsidy to pay for things like ads, rewards programs, and CEO bonuses.

The result of my amendment is that we will squeeze the fat out of the interchange system. Banks will still be able to use interchange to pay for necessary processing costs, but they won't be able to use this interchange scheme to take excessive fees out of the pockets of merchants and their customers.

Second, my amendment said that if a bank takes steps to effectively reduce fraud in debit transactions, that bank can get an increase in their interchange rate.

So instead of the current system, where Visa and MasterCard give banks the same interchange rate no matter how much fraud the bank allows, my amendment will actually incentivize banks to reduce the amount of fraud that takes place. The rules that the Fed institutes on this will mark a major step forward.

Third, my amendment said that card networks cannot require that their debit cards all use exclusively one debit network.

The story here is that there are a number of debit networks that merchants can use to conduct transactions. Until recently, most cards could be used on multiple networks. You used to see a number of debit network logos on each debit card.

In recent years, however, the biggest networks like Visa have begun requiring banks to sign exclusive agreements under which they become the sole network on the banks' cards. This diminishes competition between networks and leads to higher prices. My amendment will restore this competition.

Finally, my amendment said that card networks can no longer penalize merchants who try to offer certain discounts to consumers, like discounts for using debit instead of credit. This was a clear pro-consumer provision.

I know that my amendment has been criticized by the banks and by some of their allies in Congress. Those criticisms have generally fallen along several lines.

Some have argued that my amendment is a problem because it involves price fixing.

I agree that price fixing is a problem, but it is the current interchange fee system that represents price fixing.

Don't take it from me even Visa admits that they fix prices for all their member banks under the current system. They sent a letter to the Fed on November 8 saying, quote, "issuers do not in practice set interchange transaction fees; rather, these fees are set by networks,"

My amendment tries to correct price fixing, not create it.

Second, my amendment has been criticized because some think that it will not benefit consumers.

I absolutely agree that interchange reform should protect consumer interests. And I would note that my amendment was supported by a broad range of consumer groups and by millions of consumers who signed petitions in support of swipe fee reform.

Also, I note that the Fed met on October 13 with a number of consumer groups to discuss how to implement interchange reform.

The Fed has posted online summaries of all its interchange meetings, and according to that summary, the consumer groups said they preferred that

debit interchange fees be either de minimis or zero.

Consumers support interchange reform because, as a November 2009 GAO study points out, it is under the current interchange system that “merchants pass on their increasing card acceptance costs to their customers.”

The National Retail Federation estimates that each American family pays an extra \$427 per year as a result of inflated prices due to interchange fees.

Reining in soaring interchange fees reduces costs for merchants and consumers alike.

Now make no mistake—I expect the banks and card companies will try to get around debit interchange regulations by creating new hidden consumer fees and by steering consumers toward less-regulated products like prepaid cards. We saw the banks do this after the credit card reform bill was enacted last year.

But I want the banks and card companies to know that I will be watching, and I will make sure both the Congress and regulators step in as needed to prevent consumers from being fleeced.

Finally, my amendment has been criticized because some say it will hurt small banks and credit unions.

I have pointed out repeatedly that my amendment bends over backward to protect these small institutions. I don't want to drive them out of the debit card market, and my amendment won't do that.

Nothing in the amendment enables merchants to discriminate against cards issued by small banks and credit unions. Merchants are still required by Visa and MasterCard contracts to accept all cards regardless of the issuer.

And the amendment exempts banks with less than \$10 billion in assets from interchange fee regulation. All but around 90 banks and 3 credit unions are exempt.

These small banks can continue to receive the same high interchange fees that they do today and they will actually receive higher fee rates than their big bank competitors.

If Visa and MasterCard are so protective of their big bank members that they decide to voluntarily cut the interchange rates that small banks receive, they will be doing so against their own profit motive—and they may be doing so in violation of the antitrust laws.

My amendment does not harm small banks and credit unions, and I will be watching to make sure Visa, MasterCard and the big banks do not harm them either.

Finally, I will point out that the United States is actually late to the party when it comes to interchange regulation.

According to an April 2008 report by the Federal Reserve Bank of Kansas City, banks have reached agreement with foreign governments to reduce interchange fees in countries such as Israel, Mexico, and Switzerland.

Just this week, the European Union reached an agreement with Visa Eu-

rope to limit debit interchange fees to 0.2 percent in nine countries and for cross-border EU transactions.

These countries are doing fine without excessive interchange fees. And the United States will do fine as well.

In conclusion, the Fed's release of proposed interchange rules is an important step toward bringing relief to our nation's merchants and consumers.

Now the Fed will commence a formal comment period on the draft rules, and I and many others will likely submit comments suggesting how the draft can be further improved.

I look forward to this process.

I again want to thank my 63 colleagues who stood up back in May and voted for my amendment to rein in the unfair debit interchange system. I look forward to continuing to work with them on this issue in the future.

I know this fight will be engaged again next year. I am looking forward to defending what we have done and to move with Senator MENENDEZ of New Jersey and others to deal with other abuses in the credit card industry, such as the prepaid debit card where there are vast overcharges of fees. We have to stand in this body for the consumers of America. They cannot afford the well-paid lobbyists in the hallways. We have to stand for them because those people are the backbone of our economy, and without our support, have limited voice in the decisionmaking that takes place in this Chamber.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak for up to 20 minutes in morning business.

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

ENERGY REFORM

Mr. WHITEHOUSE. Mr. President, we come to the end of this Congress having once again failed to harness the economic potential achievable through reform of our Nation's energy portfolio or to heed the dire warnings put forth by our planet about the effects of our relentless carbon pollution.

The results of our failure are many and are significant.

With our economy now at the forefront of our minds, you would think we would have paid more attention to the economic imperative of energy reform. As the global economic race to clean energy rushes by around us, you would think we would have exhibited more concern at the prospect of being left behind.

Instead, we remain engaged as a nation in a de facto policy of unilateral economic disarmament in the battle for command of tomorrow's energy economy. We are surrendering to China, to the European Union, to competitors around the world.

The United States invented the first solar cell, but we now rank fifth among countries that manufacture solar com-

ponents. Other countries see the demand for clean energy, and they are moving their companies ahead of ours in the race to meet that demand. The United States is now home to only 1 of the top 10 companies manufacturing solar energy components and to only 1 of the top 10 companies manufacturing wind turbines.

Half of America's existing wind turbines were manufactured overseas. In Portsmouth, RI, we have installed two wind turbines. One was manufactured by a Danish company. The other was manufactured by an Austrian company, its components delivered to Rhode Island by a Canadian distributor.

Even in coal sequestration, in a country where half our power still comes from coal, we are not leading. Only one plant is under construction now with the capability to capture any significant portion of its carbon emissions.

The new energy economy that beckons us has been described in congressional testimony as bigger by far than the tech revolution that brought us our laptops and our iPads and our Black-Berries and the Internet services that are now so important a part of our daily lives. The tech economy is \$1 trillion; the energy economy is \$6 trillion.

In the race for commanding position in this new energy economy, America designed much of the underlying energy technology that the world is using, but other countries have put the propulsive effect of their government behind their industries, and they are pulling ahead of us in bringing those new technologies—our new technologies—to market. Our competitors are moving to seize an irretrievable advantage in the development and distribution of new energy technologies, and we are letting them.

Our children, I fear, will judge us sternly for failing to protect America's economic self-interest at this pivotal time. But they will judge us for that less sternly than they will judge us for our failure to protect their lands and waters, the air and climate they will inherit. For this, their verdict will be harsh.

Nature's warnings abound. Nature is giving us every signal of distress a prudent person could want or need to begin to take prudent precautions. Nature's voice is clear.

According to NASA, 2010 was the hottest climate year on record, surpassing 2005 as the previous record year.

The acidification of our oceans has reached levels not seen in 8,000 centuries—that is quite a bandwidth to fall out of.

September 2010 saw the lowest recorded Arctic ice volume, at 78 percent below the 1979 level. Researchers warn that the Arctic Sea could be ice free by 2030 and Glacier National Park without glaciers.

Western forests, as Senator UDALL just described, are falling by the mile to the ravages of spruce and mountain beetles, as warmer winters fail to kill off these pests.