

Third, as part of the transition to first-inventor-to-file, the America Invents Act eliminates costly interference proceedings as the method for determining the right to a patent between competing inventors in favor of a derivation proceeding. Under current law, before enactment of the American Invents Act, when more than one application claiming the same invention is filed, the patent is given to the applicant who has the resources to prove their claim to the invention. This costly proceeding is almost always won by larger corporations. A derivation proceeding is far simpler and does not require meticulous notes by the inventor, which gives large corporations an advantage, because the key date is the date of application.

Finally, the legislation will improve patent quality overall. Roughly half of all patents in litigation have claims invalidated. When there are too many patents out there that are not able to withstand court scrutiny, it leads to a more difficult climate for small businesses to license their inventions and raise capital from investors. By improving our patent system, we can provide confidence that when a patent is granted, it is of high quality, and inventors can rely on that.

The New York Times editorialized last week that today, "The patent system is too cumbersome, and it doesn't protect the small inventor. The America Invents Act is a smart reform." Indeed, the legislation is crucial to fulfilling the promise that we make to small businesses and independent inventors that if they put in the hard work, the United States is the place where a great invention will be rewarded. I thank the 95 Senators who voted in favor of Senate passage of the America Invents Act and look forward to continuing our work with Chairman SMITH the House of Representatives to get the legislation to the President's desk without unnecessary delay. We tried to make sure that patent reform in the America Invents Act helps small businesses and increases their ability to serve as an engine for economic growth and good jobs here in America.

Mr. President, 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.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Ms. LANDRIEU. Mr. President, I ask unanimous consent to proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Ms. LANDRIEU. 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. DURBIN. 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. DURBIN. Mr. President, it is my understanding that we are in morning business.

The PRESIDING OFFICER. The Senator is correct.

DEBIT CARD SWIPE FEES

Mr. DURBIN. This week, we are considering legislation on the Senate floor that affects small businesses. I want to talk about another issue very important to small businesses; that is, the topic of interchange fees, also known as swipe fees.

Last week, nearly 200 small businesses came to Washington, DC, from Illinois and from all across America. They came to stand up in support of the reform of interchange fees, swipe fees, that Congress passed last year. They came to stand up to the major credit card companies, Visa and MasterCard, and the \$13 trillion banking industry that is doing everything in its power to reverse this reform.

We all know small businesses are the key to our economy and its future. We need for them to be able to grow, to hire more workers, and serve their customers well. But debit card swipe fees set by Visa and MasterCard on behalf of their big bank allies are crushing many small businesses.

Back in 2009, the banks made over \$16 billion per year in debit swipe fees, about \$1.3 billion per month. Now, \$16 billion may not sound like a lot of money when you compare it to the \$20.8 billion that the New York State comptroller said was paid out in Wall Street bonuses to major financial institutions just last year, but it is a huge amount when it affects small business.

For most Americans on Main Street, \$16 billion in swipe fees is quite a lot. This money comes out of the pockets of small business owners across America and out of the pockets of their customers, who pay higher prices for gas and groceries as a result.

According to data from the Federal Reserve and the Nilson Report, over half of all debit interchange fees—more than \$8 billion per year—goes to just 10 giant banks.

What it boils down to is this: Some who are pushing for a delay in this reform are literally offering a handout of \$16 billion mainly to the biggest banks in America.

The swipe fee system does not have transparency and has no competition. The bottom line is that the current debit card system in this country is a broken market. Ask any retailer, large or small, hotel owner, restaurant owner, convenience store owner, gas station, ask them what bargaining

power they have when it comes to the amount they are charged for the use of a debit card, and the answer is, none. Ask them how much is being paid in each transaction. And the answer is, it is secret. Now, is that how you would build an economy, with no competition and no transparency? That is exactly what is going on with the duopoly of Visa and MasterCard imposing these fees on small businesses.

The banks and card companies are sending an army of lobbyists to Congress to undo the reform Congress passed last year. There are hundreds of bankers swarming over Capitol Hill this week. Several Members who have never supported an interchange reform in the first place have introduced legislation to delay that reform that we passed. I am sorry to say that this plays right into the banking industry's effort to avoid accountability.

I want my colleagues to know that small businesses are going to tell their side of the story too.

Todd McCracken is the president of the National Small Business Association. He came to Capitol Hill last week, and this is what he said:

Small businesses aren't trying to do away with credit and debit cards, we just want them to play by the rules. Small businesses have been at the mercy of these large banks for years, and the swipe fee reforms merely inject fairness and transparency into a market that has been dictated by a handful of companies for years.

Hundreds of small businesses also submitted formal comments to the Federal Reserve in support of reform. Those comments are posted on the Federal Reserve's Web site. I would like to read a few of those from my home State of Illinois.

Nolan Williamson runs a flower shop. It is called Jerry's Flower Shoppe in Carbondale, IL. Carbondale, IL, in southern Illinois, is the home of Southern Illinois University. Here is what Nolan wrote to the Federal Reserve:

In 1964, Jerry's Flower Shoppe opened, and for 35 years I have been a partner in the business. We are located in a university town, and our business depends greatly on the university. Since the university budget is down and they are not spending, our business is suffering.

We have streamlined our business as much as possible. We were forced to lay off one employee for a while, then brought her back at reduced pay and reduced hours. As a retail business, we have no choice but to accept credit and debit cards. We had to increase prices to cover the high interchange card fees. Even with a price increase, these high card fees are eating away our profits.

Nolan concluded by saying:

Help our struggling business and other small businesses around the country. Reduce our swipe fees to 12 cents as proposed.

He alludes to the fact that when the Federal Reserve took a look at the actual interchange fee being charged for the use of a debit card, they estimated the average to be over 40 cents per transaction, which is more than 1.1 percent of the value of each transaction. The actual cost? Less than 10 cents. So what the credit and debit

card companies are doing is imposing a fee that there is no bargaining over, no competition, no disclosure, and forcing retailers to pay it. Jerry's Flower Shoppe does not have a fighting chance against Visa and MasterCard. They have to pay it or else. That is, of course, transferred to a cost to customers and reduced profit to the owners.

Here is another comment from Bob Stork. He owns Stork's Catering in Springfield. I know Bob. Here is what he says:

My business has been in operation for about 35 years. We are just a small enterprise with five employees. The economic situation has taken a toll not only on my business, but also on companies all across the country. Personally, I believe that swipe fees are hindering these struggling businesses even further. If these fees keep rising, they will eventually place such a strain on us that we may be forced to close our doors. Please continue your efforts to regulate the debit swipe fees.

Here is a comment from Norman Flynn. He has a business, Culligan Water Conditioning, in Macomb, had it for over 70 years in his family. He said:

We really cannot afford to keep getting hit with unnecessary fees. Please seek to get the proposed rule implemented quickly so that debit swipe fees will be lowered and small businesses will get some breathing room.

I hope my colleagues understand that these small businesses need relief right now. They need to understand that delaying swipe fee reform, which a bill just introduced this week would do, would give Visa and MasterCard and the banks a multibillion-dollar handout and would leave small businesses and consumers footing the bill.

We have heard a lot about the bailout of Wall Street. This is the handout to Wall Street. To think that they would turn around and give to these companies \$32 billion in handouts, most of it going to the largest banks in America, by delaying this rule at the expense of small businesses and consumers all across America.

As the big banks and card companies make their pitch, I hope my colleagues will make their choice to stand with Main Street instead of Wall Street. I hope they choose to stand on the side of hard-working small business owners. Most Americans understand—and I sure do—that good jobs are created by small businesses all over this country. We have to be on their side in this struggle and not on the side of the biggest banks and Wall Street.

I wish to respond to another argument that was raised recently against interchange reform. Banks such as JPMorgan Chase have started threatening that interchange reform will force them to limit debit card transactions to \$100 per transaction. This threat is so hollow, I am amazed they are saying it publicly. It is a threat that defies basic logic. Remember, it does not cost a bank any more to conduct a \$100 debit transaction than it does a \$1 transaction. In both cases, the cardholder must already have the

money in his account. The costs to transfer that money through the network's wires are the same no matter the dollar amount. The only logical reason why banks such as Chase would make this threat is to scare opposition to interchange reform.

Once reform takes effect, big banks such as Chase would be crazy to follow through on this threat of imposing dollar limits on debit transactions. If they did, consumers will start moving in droves to small banks which are not regulated by this bill and will not impose unnecessary restrictions.

Chase also has no business to argue that they have to limit large-dollar debit transactions because they are afraid about fraud. Remember, this is the same Chase bank that last April told all of its debit card holders not to use PIN numbers even though PIN has one-sixth as much fraud loss as signature debit cards. Chase did this because Visa and MasterCard give higher interchange fees for signature debit than for PIN debit. Chase is the poster child for banks that have brought increased fraud risks upon themselves by not using PIN numbers.

I also want to respond to my colleagues who tell me they are hearing from banks and card companies that consumers might be hurt by interchange reform. First of all, these banks and card companies have no credibility when it comes to speaking on behalf of consumers. They say interchange reform will force them to raise fees on consumers, but they will not even admit that they were already raising consumer fees to record levels before interchange change reform passed.

Glance back at headlines like these: November 12, 2008, Wall Street Journal, "Banks Boost Customer Fees to Record Highs." May 28, 2009, USA TODAY, "Banks Find Ways to Boost Fees; Checking Accounts Latest Target."

Banks and card companies also refuse to concede that consumers already bear the cost of interchange fees in the form of higher retail prices. That is particularly hard on the unbanked and low-income Americans.

Instead of listening to banks and card companies about consumer interests, I suggest my colleagues listen to those consumer groups in Washington.

Just this week, the Consumer Federation of America sent a letter to all Senators. Here is what it said:

The current interchange system is uncompetitive, non-transparent, and harmful to consumers. It is simply unjust to require less affluent Americans who do not participate in or benefit from the payment card or banking system to pay for excessive debit interchange fees that are passed through to the cost of goods and services. As a result, the Consumer Federation of America does not support delaying implementation of the new law.

Other groups, such as U.S. Public Interest Research Group, Public Citizen, and the Hispanic Institute, have argued strongly that interchange reform will help consumers across America, just as it has helped consumers in many other

countries that have undertaken reform.

Do you know what the interchange fee is in Canada? It is zero. The same companies that are offering debit cards here in the United States do not charge an interchange fee in Canada. And they have just recently reduced the interchange fees dramatically in Europe, much lower than the United States. Same companies.

How can they do that? They did it because the governments of Europe stepped up and said: This is a ripoff. You can no longer impose, unilaterally, interchange fees, and we are going to regulate it.

They said: Please do not. We will just drop the fees dramatically.

And they did.

Look what is happening here. We have a group of Senators and Congressmen who are now saying: We are not only refusing to assert the rights of consumers, we are going to back off and let the banks and card companies charge whatever they want for at least 2 more years. Whatever happened to our sensitivity to the people we are supposed to represent—the consumers and the small businesses? That, to me, is a troubling outcome, if, in fact, those who push this legislation continue to do so.

We all know the game plan that Visa, MasterCard, and the \$13 trillion banking industry is using.

We have seen it before. They will try to kill interchange reform outright using threats and scare tactics. If they can't kill it, they will try to delay it, praying that the next President and the next Congress will be even friendlier to the banking industry.

Exactly the same thing happened when Congress passed the Credit Card Act in 2009. The banks and card companies fell all over themselves trying to raise fees before the rules went into effect. When I would go home to Springfield, my wife would say to me: Guess what, here is another notice from the credit card company raising the interest rate you have to pay on late charges. I thought you passed credit card reform.

I said: It doesn't take effect for a few more months. They are running as fast as they can to run up the fees in the meantime.

That is what is happening to businesses with the interchange fees. A lot of people don't know it because they don't get a notice in the mail about the interchange fee. That has been their game plan in the past, and it is their game plan again.

I am sick of the big banks and card companies squeezing American consumers and small businesses with tricks and traps and unfair fees. I will stand with the small businesses and consumers of America on this issue. I will fight the big banks and the big credit cards and their efforts to kill or delay swipe fee reform.

I urge my colleagues to join me in standing up for Main Street and

against the abusive fees and practices of Wall Street.

JAPAN TRAGEDY

Mrs. BOXER. Mr. President, I rise today to offer my deepest condolences to the people of Japan, and to reaffirm that the United States stands ready to assist the country and its people in this time of tremendous need.

On Friday, March 11, the world watched in horror as a devastating 9.0-magnitude earthquake struck off the northeastern coast of Japan, triggering a devastating tsunami that sent a 30-foot high wall of water hurtling into coastal towns and leaving complete destruction in its wake.

As a Senator from California, which has far too often experienced the devastation of earthquakes, I was horrified by the magnitude of this event.

In a stunning development, scientists are now saying that the quake caused the island of Japan to shift by 8 feet and the Earth's axis to move by 4 inches.

In Japanese cities such as Sendai and Minami Sanriku, entire communities and countless lives vanished in an instant. In Minami Sanriku alone, 10,000 members of a population of 17,000 remain unaccounted for.

The force of the tsunami generated by the quake was so great that waves traveled across the Pacific Ocean at more than 500 miles per hour, slamming into Hawaii and cities along the California and Oregon coasts.

Today, we know that an estimated 4,277 lives have been confirmed lost—a figure that will undoubtedly rise—and that hundreds of thousands have been displaced. In this time of extraordinary grief, our thoughts and prayers go out to those who have lost loved ones and to those whose family and friends remain missing.

What we also know is that without Japan's strict building codes and well-developed early warning systems, this terrible tragedy would have been much worse.

I praise the work of all the first responders who are working around the clock in Japan. Tens of thousands of Japanese rescue workers have been joined by teams from around the world, including from the United States and China.

I know that this includes a search and rescue team from Los Angeles County.

The team, which left for Japan on Saturday, is made up of 74 rescue personnel including firefighters and paramedics as well as six teams of search dogs who are trained to look for survivors trapped in debris left by the earthquake and tsunami.

There are also approximately 600 servicemembers from Naval Air Station Lemoore in California aboard the U.S.S. Ronald Reagan aircraft carrier, who are assisting relief efforts off the Japanese coast.

Our deepest gratitude goes out to all of those who are working tirelessly to

save lives and bring comfort to communities in need.

We also know that the earthquake and tsunami have caused tremendous difficulty at a number of nuclear energy facilities within Japan.

The damage and subsequent failure of systems at these nuclear reactors are a clear warning that we must step up efforts to ensure that every precaution is taken to safeguard all of our people from a similar nuclear disaster.

Special and immediate attention should be given to those nuclear reactors that share similar conditions as the failing reactors in Japan—those located near a coastline or fault line, or those with a similar design.

We must all reexamine our assumptions about what constitutes a credible threat to those reactors and ensure we learn the lessons shown to us by the recent events in Japan.

As chairman of the Environment and Public Works Committee, which has jurisdiction over domestic nuclear regulatory activities, I will ensure that our members have full briefings on all of these issues, and I will hold a hearing on the safety of the Nation's nuclear facilities and what lessons can be learned from the dangerous situation at the failing reactors in Japan. I am also calling on the NRC to conduct a comprehensive investigation of these issues, with a focus on areas that are especially vulnerable to seismic activity like California.

I would also like to spend a few moments talking about the approximately 300,000 Japanese-Americans who call California home.

I am particularly proud that the Japanese American community in my State has quickly stepped up to assist with relief efforts in the aftermath of this horrible tragedy. This includes the Japan America Society of Southern California—a nonprofit organization founded in 1909 to build relationships between the United States and Japan. This also includes the nonprofit Japanese Cultural and Community Center of Northern California. These are just a couple of examples of how Californians are pulling together to help the thousands who have been devastated by the earthquake and tsunami.

I thank all those in California, and those across the country and the world, who have responded to this tragedy with an outpouring of support for the people of Japan.

I would also like to take just a brief moment to thank the Federal, State, and local officials in Hawaii, California and along the west coast for their quick response in warning residents of the tsunami threat and assisting those communities affected by severe waves.

Coastal areas in northern California, particularly Crescent City and Santa Cruz, were impacted by these waves, resulting in damages to port and harbor infrastructure. I am pleased that federal officials arrived in California Monday and are working with State and local officials to assess the situation.

And finally, I thank Senators REID, MCCONNELL, KERRY, and LUGAR for drafting a resolution on the tragedy which passed the Senate Monday evening. I am proud to be a cosponsor.

The resolution expresses the Senate's deepest condolences to all of those affected by this tragedy, including the families of the victims. It also urges the U.S. Government and the international community to provide any additional assistance the Japanese government may need as it moves toward healing, rebuilding, and recovery.

Experts tell us that events of this magnitude are rare—in fact, this was the largest recorded earthquake in Japan's history.

While we hope and pray that we never see such a horrific event again, this tragedy serves as a stark reminder of nature's extraordinary power and how precious and fragile life is.

Let us also use this as an opportunity to redouble our commitment here in America to do the hard work of preparing for the unthinkable.

HONORING OUR ARMED FORCES

CORPORAL LOREN M. BUFFALO

Mr. BOOZMAN. Mr. President, I rise to honor the life of one of America's bravest killed in action in Afghanistan—CPL Loren M. Buffalo—a fallen hero who served our Nation in support of Operation Enduring Freedom.

Corporal Buffalo, 20, of Mountain Pine, AR, was by all accounts, driven by a call to serve his country and strong sense of civic duty.

The son of an Arkansas National Guardsman and the grandson of a World War II veteran, Corporal Buffalo joined the Army in 2009, just after graduating from Mountain Pine High School. His father, Cecil Buffalo, told *The Sentinel-Record*, that he knew his son wanted to serve his country all the way back in junior high. Mr. Buffalo said his son was a “strong-hearted all-American boy” who “loved his country and wanted to serve it.”

In Mountain Pine, Corporal Buffalo is remembered as a young man who would make the best out of any situation. One of his mentors said that Corporal Buffalo “was 100 percent about community.” During his teenage years, Corporal Buffalo undertook a number of projects honoring and supporting our Nation's veterans.

Beyond a life of service, Corporal Buffalo enjoyed making music. A multitalented musician, Mr. Buffalo said his son could play the guitar, drums, bass and “just about anything you put in his hand.”

Corporal Buffalo was assigned to B Troop, 1st Squadron, 75th Cavalry Regiment, 101st Airborne Division based out of Fort Campbell, KY. According to initial reports, he died from injuries sustained when an improvised explosive device detonated near his dismounted patrol in Kandahar. He received multiple medals for service, including a Purple Heart and a Bronze Star.