That is the American way I have always known. I applaud my colleagues who remain committed to working together.

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

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

INTERCHANGE FEE REFORM

Mr. DURBIN. Madam President, I rise to speak about the issue of swipe fees. Most people do not know what a swipe fee is, but it is almost part of your daily life. The next time you reach into your wallet or purse and pull out a piece of plastic to pay for something—such as my debit card—and present it at a retailer or a restaurant or a hotel or a gas station, understand what is happening in that transaction. There are several things that are not even visible.

What is happening in that transaction is, you are paying that merchant and your bank is going to honor that payment from your account on your debit card, but then the bank and credit card company are going to charge the merchant for the transaction.

In days gone by, if we paid in cash, obviously, there was no fee involved. If we paid with a check—which was done for a long time and is done less and less now—there were pennies charged to process the check. Whether the face amount of the check was $1 or $100—pennies to process the piece of paper through the system.

A much more efficient system is being used with debit cards, where we actually are withdrawing money from our own account to the credit of the restaurant or the retailer. Unfortunately, there is a fee involved charged to the merchant or retailer called the swipe fee—accurately called the swipe fee because what has happened is, these major companies—Visa and MasterCard and the banks that issue their cards—have established how much each transaction will pay in this swipe fee or interchange fee.

The Federal Reserve recently did an analysis and found something interesting: They found that the average swipe fee across America is 44 cents for each transaction. Then they said: Well, what does it actually cost to process this debit account movement of money from one place to another? The answer was: 10 cents or less.

So there is a substantial charge involved in the hundreds, thousands, tens of thousands, millions of transactions that go on every single day, and it has a direct impact on the places where we do business. It means there is an added cost to the retailer or merchant that we are doing business with for the use of the debit card that goes beyond the actual cost to the bank involved.

You say to yourself: Well, that is business, isn't it? If you are going to take these cards, and you want the convenience of using these cards, you have obviously negotiated 44 cents and that is the way it goes. Wrong. There is no negotiation involved. The retailers and merchants literally have no bargaining power in what that fee will be, and over the years, that swipe fee, or interchange fee, has been creeping higher and higher. For many businesses across America, it is the second or third most expensive item in doing business. That is right. Beyond the cost of personnel and workers and beyond the rental and utilities paid or health insurance comes the swipe fee—the fees charged by credit card companies for the use of debit cards and credit cards.

What we said last year, while we were debating financial reform, was, this price fixing by the credit card companies—and there are two giants, Visa and MasterCard, that control 80 percent of the card transactions in America—this swipe fee that is being charged by them should be reasonable and proportional to the actual cost of the transaction. They should not be able to force feed and price fix an excessive swipe fee, or interchange fee, on retailers and merchants across America.

We said to the Federal Reserve: Take a look at this and try to figure out a way to establish a reasonable, proportional fee since the credit card companies and the big banks are not going to negotiate. The Fed is in the process of doing it.

We also said any bank or credit union with less than $10 billion in assets will not be affected by this. Our object was to make sure the hometown banks, the local banks, the local credit unions, could continue to receive interchange fees without any type of oversight by the Federal Government. Some people said: Why didn't you include them? Well, we tried to give them an opportunity to continue to do business because, frankly, those who are closest in the communities are the ones we ought to be mindful of and protective of.

Perhaps I have a little prejudice involved too. The biggest banks in America—the top 1 percent of banks in America—are the ones that do almost 60 percent of this card business. I am talking about the same Wall Street banks that ended up getting a bailout from the Federal Government, to the tune of hundreds of billions of dollars. I do not have a lot of sympathy for them. They made some stupid mistakes and the taxpayers came to their rescue. From my point of view, we should not be subsidizing them or creating an opportunity for them to fix prices when it comes to merchants and retailers across America.

This passed last year with a strong bipartisan vote of 64 Senators, and the biggest banks in America and the biggest credit card companies in America have been working nonstop ever since to stop this from going into effect. They have poured more resources into this effort than I have ever seen, and I have been around this place for a while. They want to stop this because they hate swipe fee reform like the devil hates holy water. For them, it is a dramatic loss of money. How much? Each month—each month in America—these debit swipe fees generate $1.3 billion—$1.3 billion—for the banks at the expense of merchants and small businesses and large businesses, too, for that matter, across America. But not just at their expense. These swipe fees are being paid every time a person uses a debit card or a credit card to pay the government, to pay a university, to make a charitable contribution. That is a reality, and $1.3 billion a month—most of it going to the biggest banks in America—they believe is worth fighting for.

So the fight has been joined, and Senators have come to the floor and submitted an amendment to postpone this swipe fee reform for 2 years—2 years—to study it. Let me see, 24 months times $1.3 billion—over $30 billion they want in a handout to the biggest banks and credit card companies in America. I do not think that is fair. It is sure not fair to the small businesses that had asked me to introduce this and ask me to continue to fight for it. It is not fair to these businesses or their customers.

You see, our reform efforts are not just supported by the businesses. They are supported by the Consumer Federation of America, the largest consumer advocacy group in the United States. They understand that if you are dealing with a competitive business—let's assume you have gas stations across the street from one another and you make more profitability at one gas station, they can lower prices and be more competitive with the gas station across the street. The same is not true when it comes to big banks and credit cards. When it comes to credit cards, we have not a monopoly but a duopoly—two monopolistic companies, very little competition between them. There is a lot of competition in small town America and Main Street America.

Some people ask me why I tackle some of these issues that involve the big banks and credit card companies and others. They say: Don't you understand these operations you are fighting are pretty large in terms of their resources and their political might? There is truth in that. The banks are a $13 trillion industry in America, according to the American Bankers Association—$13 trillion—and last year the banking industry in America made over $87 billion in profits.

Visa and MasterCard were spun off from big banks a few years ago and now are multibillion-dollar companies that control nearly 80 percent of the payment card market.

People tell me these financial industry giants have unlimited resources, and they are going to fight when there is $1 billion a month on the table.

Well I do not think the people of Illinois sent me—or sent from their own States other Senators—to hand the keys of this country over to big banks and credit card companies. They sent me to make sure Wall Street banks follow the same rules of the road that Main Street businesses follow every single day.

There is nothing wrong with fees charged for services provided, as long as those fees are transparent and are set in a competitive market environment. Don't tell me you are for a free market and then say but Visa and MasterCard can fix prices. Don't tell me you are for a free market and then say those prices they fix have to be concealed and hidden from the public.

When markets are characterized by transparency, competition, and choice, consumers benefit. But consumers do not benefit when fees are hidden, changed without warning or set by agreement between competitors. Sadly, that describes many of the fees banks and card companies have charged in recent years.

We passed the Credit CARD Act of 2009 and then the Dodd-Frank Wall Street Reform Act last year and the Consumer Financial Protection Act was also included. We targeted many of the hidden fees consumers pay in America. If we do not do it, ladies and gentlemen, if the Senate does not do it, I would say to my colleagues: It will not be done.

These powerful economic business entities in America need to be watched closely. Do not take my word for it. Take the word of those who analyze the recession which we are dealing with. Left to their own devices, these entities will go to extremes when it comes to profit taking, and that is what is happening when it comes to these big banks and credit card companies today. If we do not stand for consumers and small businesses on the floor of the Senate, shame on us. Who else is going to do it?

By making fees transparent and helping to inform consumers, our laws will help the financial services market work better for all Americans.

This swipe fee, or interchange fee, reform amendment I added to the Dodd-Frank bill also addressed an anti-competitive market failure in the debit card system. For years, the banking industry has engaged in a collusive practice. The banks that issue the cards have let Visa and MasterCard fix the interchange fee rates banks receive from merchants every time a debit card is swiped. The banks get the fees, but they do not set the fees. Their friends at Visa and MasterCard set the fees that will be charged. This is price fixing, purely and simply, by Visa and MasterCard on behalf of thousands of banks, and this price fixing is currently unregulated.

Of course, every bank in the country is going to tell us the interchange system is working just fine, Senator. That is because with centrally fixed interchange rates, banks do not have to worry about competition. Each bank knows the bank down the street is getting the same fee they are. But there are two fundamental problems with Visa's and MasterCard's fixing of these interchange rates and swipe fees.

First, centralized rate fixing gives the card-issuing banks no incentive to manage their operational and fraud costs efficiently. All banks in the Visa network are guaranteed the same Visa price-fixed interchange rate whether they are efficient or not. There is no competition and the fees literally subsidize inefficiency.

Second, because Visa and MasterCard, the credit card giants, control nearly 80 percent of the debit card market and merchants can't realistically refuse to accept them, Visa and MasterCard have the incentive to constantly raise interchange rates to encourage banks to issue more of their cards. So fee rates keep going up and the merchants are helpless to do anything about it.

I have heard so many speeches on the floor of the Senate about how we love our small business, and we should. It is the backbone of the economy of America. This interchange fee goes to the basic survival of small businesses across America. If this Senate is going to decide that it is more important to protect the big banks and credit card companies than small businesses, shame on us. We should accept the reality that it means these small businesses will struggle, will not be as profitable, will not hire as many people. Can that make us a better country? Can that help us out of the recession?

Merchants can't say no to Visa and MasterCard because of the market power of these two credit card giants and because swipe fee rates are fixed by the networks. A merchant doesn't even have the option of negotiating a better deal, so merchants are stuck with whatever the increase is in swipe fees, which is then passed along to consumers in the form of higher prices for gasoline and groceries. Consumers, and particularly low-income and unbanked consumers, pay for the debit interchange system to the tune of $16 billion a year.

Incidentally, do my colleagues know what the interchange fee is in Canada charged by Visa and MasterCard—the same fee I have been talking about here—through the banks in Canada? Zero. There is no interchange fee. Do my colleagues know what it is in Europe? A fraction of what it is in the United States. Why is that the case? Why would these credit card giants say they can't survive oversight of their interchange fees in the United States and charge zero in Canada and pennies in Europe? Because the Canadian Government came to them and said, We are not going to let you rip off our small businesses. We will regulate you. They said, Never mind, we won't charge an interchange fee in Canada. In Europe, the same thing happened. If we are silent, exactly the opposite will occur. The credit card companies will continue to increase these fees at the expense of American consumers and small businesses and large businesses alike.

Some people out there apparently trust Visa and MasterCard to price fix in a fair and benevolent way. They don't see the need for reform. If you believe the giant credit card networks can be trusted to fix interchange prices in a way that is fair for banks, merchants, and consumers, then you should be fine with the status quo and have no problem prolonging it for years.

That is exactly what the amendment coming before us will do. It will postpone for 2 years and put in a study of this issue. Well, we should study things before we act on them, that is for sure. But let's look at the record. We have had nine different congressional hearings on this issue and three separate studies already. We have studied this one to death. What the banks and credit card companies want us to do is to keep on studying so they can collect $1.3 billion every single month. That is their strategy.

I don't place my trust in Visa and MasterCard, and I am not alone. Last year, a strong bipartisan majority in Congress said we better stand up for small business and retailers and consumers, and we passed this law. The banks and credit card companies are pulling out all the stops. I learned yesterday that Chase, which is one of the major issuers of these debit cards across America, sent a letter to their customers in a number of States and said, If you don't repeal the Durbin amendment, we are going to end up in a position where we won't be able to give you all of the rewards which we are offering you on your debit and credit card.

First, this relates to debit cards which don't carry the big reward programs. Secondly, this kind of veiled threat from these credit card companies should not be taken seriously by any consumer across America.

The last time we had credit card reform, we unfortunately waited months before it became law. The credit card companies saw it coming. So what did they do? They dramatically raised their interest rates on consumers across America during that period of time. Don't expect any favors from this industry. If we do not regulate the credit card industry and the banks that issue these cards, trust me, the consumers will continue to lose time and time again.

As for Chase, I don't think there are going to be any poppy flowers sold on their behalf on street corners. If I recall correctly, their last earnings report showed a 48-percent increase in profits over their previous year. They are doing quite well. Now it is time for them to give small businesses and consumers across America a break when it comes to the fees they are charging.

Congress said that if banks are going to let Visa and MasterCard fix the interchange rates that merchants pay banks, then the rates fixed on behalf of the biggest 1 percent of banks must be reasonable and proportional—reasonable and proportional. This is a narrowly targeted reform through the Federal Reserve. The new law will provide a constraint on ever-rising interchange fees that the current broken market does not provide.

We have given this job to the Federal Reserve. They have put out draft rulemaking and they are soliciting comments across the country. Chairman Bernanke called me a couple of days ago and said they needed an additional few weeks to come up with the rule that will still go into effect in July of this year. I understand that. I want him to do his best. I want him to follow what this law says—exempting credit unions and community banks with less than $10 billion in assets.

The Fed has taken this job seriously, and I am glad they have. The Fed knows that many small banks are concerned the reform might affect them even though the law clearly exempts them. Last week Chairman Bernanke told all those small banks at a meeting that he understands their concerns and will work with them to make sure the final rule addresses them.

I urge my colleagues to stand up for the reasonable reform Congress passed last year. We don't need another study. A study is an excuse for the credit card companies and the biggest banks in America to take $1.3 billion a month out of the economy and away from small businesses.

I want my colleagues to know there is broad support for debit interchange reform. I have received many letters in recent days from individuals, small businesses, and organizations that support reform. I will readily concede that the big box retailers are also benefitted by this. I am not trying to hide that. That is a fact. But the simple fact of the matter is this has been generated by a lot of local people and a lot of local businesses.

Let me tell my colleagues, this is hardball as far as the big banks and credit card companies are concerned. I happened to mention that I was brought to this issue 4 or 5 years ago by a good friend of mine, a very conservative gentleman who has been very successful in downstate Illinois, named Rich Niemann from Quincy, IL. He owns a bunch of grocery stores and has expanded all across the Midwest. He is a hard-working guy the like of which is hard to find. He and I disagree on a lot of things, but I always turn to him when I have a business issue because I know he will give me an honest analysis. When Rich told me that he started accepting plastic at his grocery stores, it went from just a small number of transactions to now almost half of the transactions at his grocery stores are with plastic and he says, They are killing me with this interchange fee. The credit card companies and debit card companies are charging him this fee and he has no voice or bargain in the process. They charge whatever they want to charge and he pays it. He is a man who is trying to create jobs in small-town America. I thought he had the right approach to this. They should be able to recover their reasonable, proportional costs for using a debit card, but why should they be able to penalize a business such as Rich Niemann's grocery stores? I said this publicly a couple of days ago and, not surprisingly, some folks on the other side decided to go after and attack Rich Niemann as a businessman. I will stand with him. From my point of view, he is a good man. I don't think he votes for a lot of Democrats. I hope once in a while he might vote for me, but notwithstanding that, I respect him so much and I am sorry he had to take this beating in the press from the other side. He can take it, though. He has been a tough guy who has stood up for his family and his business all his life.

Incidentally, on March 18 I received a letter from the American Council on Education and nine other national associations representing colleges and universities and here is what they said:

> Debit card swipe fees have been a hidden expense for students and families paying for college for which they receive no benefit. As a result of the law enacted last year and the Federal Reserve's proposed rule, we believe colleges and universities will see reduced debit card costs which they will be able to pass on to students through lower costs as well as increased resources for institutional grant aid and student services.

We don't think about that. We think about gas stations. But the fact is students use plastic for everything, and the universities and colleges end up paying these swipe fees to the big banks and the credit card companies and debit card companies as a result.

On March 15 I got a letter from the Consumer Federation of America. Some of the folks on the other side said this will never help consumers. These businesses are going to take all the savings that would otherwise go to the big banks and credit card companies and they are going to take those and go home. Well, I disagree, and so does the Consumer Federation of America, the leading consumer advocate in this country. Here is what they said on March 15:

> The current interchange system is uncompetitive, nontransparent, and harmful to consumers . . . CFA does not support delaying implementation of the new law.

That is what the amendment on the floor today suggests.

On March 15 I received a letter from the consumer groups Public Citizen and U.S. PIRG, and here is what they said:

> The Durbin amendment was designed to curb anticompetitive practices in the payment card market . . . we do not support legislation calling for delay of the Durbin swipe fee amendment.

Yesterday I received a letter from Americans for Financial Reform, a coalition of over 250 national, State, and local groups, including consumer, civil rights, investor, retiree, labor, religious, and business groups. Here is what they said:

> From a consumer point of view, the current interchange system is not defensible. Feeble competition in the payment card marketplace has led to unjustifiably high debit interchange fees that the poorest Americans, generally cash customers, are required to subsidize at the store and at the pump. . . . We oppose efforts to delay the implementation of the Durbin amendment through Congressional action.

Make no mistake, the big banks and card companies want to stop this rule before it is issued, because they are afraid that once it is issued and once people realize the savings to business and consumers across America, they will never go back. So they are pouring it on to try to move this amendment as quickly as possible to stop the Federal Reserve from issuing the rule which the law requires them to issue.

On March 17, the Hispanic Institute sent me a letter and here is what they said:

> Sixteen countries and the European Union regulate swipe fees and their experience demonstrates that regulation benefits consumers in lower fees and lower cost of goods. There is no evidence that swipe fee regulation will lead to an increase in other consumer fees.

The National Small Business Association—as I said, we spend more time on the Senate floor venerating small businesses than almost anything other than our troops. Here is what the National Small Business Association said in a statement on March 23:

> The Durbin amendment and the proposed Fed rule are beneficial to America's small businesses. Further delay, equivocation, and another big-bank handout are not.

I also received a letter from 185 national and State merchant trade associations representing 2.7 million stores and 50 million employees.

Let me say at the outset, the coalition I am representing is not nearly as powerful or as large politically as the big banks and the credit card companies. They can't match them in terms of their political power, the number of lobbyists they hire, the number of letters they send, and all the rest. For the most part, they represent a lot of small businesses that are trying their best to get fair treatment. Here is what they say:

> We have repeatedly sought to negotiate with the card companies to reform this broken market and bring savings to our customers. Fifteen years later, we have concluded that normal market forces cannot and do not work in a broken market with price-fixing among banks controlled by a duopoly.

They mean Visa and MasterCard.

They urged Congress to oppose any efforts to delay swipe fee reform.

The United Food and Commercial Workers, a union which I used to belong to when I was growing up, said:

Delaying swipe fee reform will also delay the creation of thousands of jobs each year that will result in reduced interchange fees. This reform is long overdue for working Americans everywhere.

The National Community Pharmacists Association and the National Association of Chain Drug Stores sent me a letter and said:

We request any assistance you can provide in ensuring the timely completion of the final regulations and enforcement of the Durbin amendment.

The National Association of College Stores and 20 State associations wrote and said:

Credit and debit purchases account for more than $100 million annually in interchange fees paid by college bookstores and their student and parent customers.

Let me repeat: $100 million a year paid by college bookstores and their student and parent customers in interchange fees to the banks and credit card companies.

They go on to say:

Excessive swipe fees that would otherwise be returned to students through lower prices, grants, and student services are being misdirected toward credit card companies and large banks. . . . Every month of delay means higher costs for students and parents at a time when schools are being asked to do more with less funding.

I ask unanimous consent that these letters be printed in the RECORD.

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

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, March 18, 2011.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: I write on behalf of the higher education associations listed below to oppose efforts to delay, amend, or repeal the debit card swipe fee reforms enacted last year in the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd Frank Act'') and regulatory implementation of these reforms by the Federal Reserve. We strongly support these needed reforms, which will provide real relief to students, their families, and colleges and universities across the country.

Debit card swipe fees have been a hidden expense for students and families paying for college for which they received no benefit. As a result of the law enacted last year and the Federal Reserve's proposed rule, we believe colleges and universities will see reduced debit card costs which they will be able to pass on to students through lower costs as well as increased resources for institutional grant aid and student services. In addition, implementing this reform will create an opportunity for institutions to offer discounts to students for payments made with checks and debit cards.

During this time of economic insecurity, steps like those undertaken in swipe fee reform will help students and their families manage the costs of college with increasingly strained budgets.

We urge the Senate to stand up for students and the colleges and universities that serve them by ensuring that these debit card swipe fee reforms are fully implemented in a timely manner.

Sincerely,

MOLLY CORBETT BROAD,
President.

CONSUMER FEDERATION OF AMERICA,
March 15, 2011.

DEAR SENATOR: As Congress assesses the impact on consumers of debit interchange legislation it enacted last year, the Consumer Federation of America would like to share with you the conclusions we have reached:

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 costs of goods and services. As a result, CFA does not support delaying implementation of the new law.

The Federal Reserve should ensure that financial institutions are reimbursed for legitimate, incremental debit card costs as it finalizes rules implementing new interchange requirements. If such compensation does not occur, these institutions could increase debit card and other related banking charges on their least desirable and most financially vulnerable consumers: low- to moderate-income account holders.

Once the law is implemented, the Federal Reserve should also pay close attention to how it affects the financial viability of small depository institutions, especially credit unions, which often provide safe, lower-cost financial products to millions of Americans.

Although CFA did not take a position on the interchange provisions of the Dodd-Frank Act, we have carefully examined the law and filed comments with the Federal Reserve on how to implement it fairly and effectively. For example, we urged the Federal Reserve to consider increasing its proposed interchange pricing standards as allowed under the law to include several specific, debit-related expenses incurred by financial institutions. CFA also recommended that the Federal Reserve launch a broad, balanced study upon implementation of the effects of the rule on consumers.

From a consumer point of view, the current interchange system is not defensible. Feeble competition in the payment card marketplace has led to unjustifiably high debit interchange fees that the poorest Americans are required to subsidize. The new law gives the Federal Reserve authority it can use without delay to make sure that the debit interchange reimbursement financial institutions receive covers their legitimate, incremental costs for providing debit card services.

Sincerely,

TRAVIS PLUNKETT,
Legislative Director.

MARCH 15, 2010.

CONSUMER GROUPS OPPOSE DURBIN AMENDMENT DELAY

TO THE BIPARTISAN CONGRESSIONAL LEADERSHIP: U.S. PIRG and Public Citizen write in support of the timely implementation of the Federal Reserve swipe fee regulation as prescribed under the Durbin Amendment of the Dodd-Frank Wall Street Reform and Consumer Protection Act enacted last summer. The law provides numerous reforms to financial industry practices beneficial to consumers, depositors, investors and taxpayers. Included in the Dodd-Frank Act is the Durbin Amendment, which limits the interchange swipe fees charged to retail merchants on debit card transactions. The Durbin amendment was designed to curb anti-competitive practices in the payment card market.

It is our understanding that there has been proposed legislation introduced to delay the implementation of the Durbin amendment. We do not support legislation calling for delay of the Durbin swipe fee amendment. While we have urged the Federal Reserve Board of Governors to modify its proposed rule implementing parts of the Durbin Amendment (parts have already taken effect), the rulemaking process, not further legislation, is the appropriate venue for any changes. In addition, consideration of a delay in the Durbin amendment could otherwise imperil timely implementation of the Dodd-Frank Act's other provisions designed to remediate the economic crisis caused by risky, unregulated Wall Street practices.

We appreciate your consideration of our views urging that the Durbin amendment be implemented by the Federal Reserve, not delayed in the Congress.

Sincerely,

U.S. PIRG AND PUBLIC CITIZEN.

AMERICANS FOR FINANCIAL REFORM,
Washington, DC, March 30, 2011.

DEAR SENATOR/REPRESENTATIVE: We write to express Americans for Financial Reform's continued support for the Durbin swipe fee amendment which we supported and was included in the Dodd-Frank Wall Street Reform and Consumer Protection Act. 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 costs of goods and services. As a result, AFR does not support Congressional delay of implementation of the new law.

As you know, Americans for Financial Reform is an unprecedented coalition of over 250 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, religious and business groups as well as renowned economists.

We oppose efforts to delay implementation of the Durbin amendment through Congressional action. The new law gives the Federal Reserve adequate authority it can use without delay to make sure that the debit interchange reimbursement financial institutions receive covers their legitimate, incremental costs for providing debit card services.

From a consumer point of view, the current interchange system is not defensible. Feeble competition in the payment card marketplace has led to unjustifiably high debit interchange fees that the poorest Americans, generally cash customers, are required to subsidize at the store and at the pump.

Thank you for your consideration of our views. If you or your staff have any questions, please contact Ed Mierzwinski at U.S. PIRG.

Sincerely,

AMERICANS FOR FINANCIAL REFORM.

THE HISPANIC INSTITUTE,
Washington, DC, March 17, 2011.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
U.S. Capitol, Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS REID AND MCCONNELL: On behalf of The Hispanic Institute, I urge you to oppose Senate Bill S. 575, House Bill H.R. 1081, and any other effort to delay, amend or repeal the Durbin amendment which passed last year as part of the Dodd-Frank Wall Street Reform Act. Delaying implementation of the Durbin amendment hurts consumers, especially low- income consumers.

The Hispanic Institute's mission is to provide an effective education forum for an informed and empowered Hispanic America. We have already studied the impact of swipe or interchange fees on Hispanic America. In fact, we have been studying the problem of swipe fees for years and have found that the market for these fees is broken and that Hispanic American consumers and businesses are harmed as a result.

In 2009 we published a study, ''Trickle-Up Wealth Transfer: Cross-Subsidization in the Payment Card Market,'' that broke new ground by showing that hidden swipe fees imposed on credit and debit cards result in a reverse transfer of wealth and make low-income Americans subsidize high-income Americans—without them even knowing it. We also found that these fees are part of the prices consumers pay every day and that when fees are lower, prices are lower for consumers. Our ground-breaking work has since been cited by the Boston Federal Reserve.

On February 17th, we submitted testimony to the House Financial Institutions Subcommittee of Financial Services, along with U.S. PIRG and Public Citizen, voicing support for the Federal Reserve rule to deal with the problems we have found. Unfortunately, the banking industry is fighting to stop these needed reforms. If the banking industry is successful in delaying or repealing reform, consumers and the American economy will pay. Studies indicate that consumers will pay an extra $1 billion to banks every month that reform is delayed, and the more than 95,000 new jobs that reform would create each year will be shelved. This should not happen.

As we noted in our testimony:

The current swipe fee market is broken and all consumers pay more for less because of escalating swipe fees;

Sixteen countries and the European Union regulate swipe fees and their experience demonstrates that regulation benefits consumers in lower fees and lower costs of goods;

There is no evidence that swipe fee regulation will lead to an increase in other consumer fees; and

Reductions in swipe fees should result in substantially lower prices for all consumers.

The Durbin amendment and Federal Reserve rule allow banks to compete on swipe fees and avoid regulation. Reasonable limits are only imposed when the banks centrally fix their fees. If they would compete, all American consumers and businesses would be far better off. We urge you to oppose S. 575 and H.R. 1081, and press for the Federal Reserve's rule to be finalized and take effect in order to address the terrible problems with swipe fees that the Hispanic Institute has identified. Thank you for your consideration.

Sincerely,

GUS K. WEST,
President, Board Chair.

[From National Small Business Association, Mar. 23, 2011]

BILLS INTRODUCED TO DELAY SWIPE FEE REFORM

The U.S. Federal Reserve (Fed) in Dec. 2010 proposed new rules limiting the size of the fees banks can charge businesses every time a debit card is used to pay for a good or service. The Fed was required to address debit-card swipe fees thanks to an NSBA-supported amendment, introduced by Sen. Whip Dick Durbin (D-Ill.), to the Restoring American Financial Stability Act (S. 3217). The final rule is expected by April and currently is set to take effect on July 21, 2011.

The Fed proposed a number of options that would result in reduced swipe fees for debit-card transactions. One option would allow issuers to set a flat fee of seven cents per transaction. A second option would allow a sliding scale, based on the purchase price, with a maximum fee of 12 cents per transaction. The proposed rule exempts banks with less than $10 billion in assets and does not apply to credit cards.

Although NSBA supports no interchange fees being charged on debit-card transactions—since they clear, like checks, at par—the proposal represents significant progress. Currently, merchants pay, on average, debit card processing fees of about 1.3 percent. According to the Fed, the average swipe fee last year was 44 cents. This means that even the highest option would result in swipe fees more than 70 percent lower than the 2009 average.

The proposed rules also still present issuers with a large profit margin. According to one bank, a swipe-fee cap of 7 cents per transaction still would produce a profit margin of about 8 percent, compared to the retail industry's average profit margin of one to three percent.

While the proposed rule was a significant victory for small businesses, retailers, and consumer groups, it was met with immediate howls by the banking industry, which collected $16.2 billion from debit-card swipe fees in 2009. Arguing that the proposed rule represented governmental interference in the private market (and ignoring the fact that the previous system differed greatly from any notion of a competitive ''market''), the banking lobby responded to the proposed rules with a multi-million advocacy campaign aimed at undermining them.

Last week, they achieved their first success in this effort, when Sens. Jon Tester (D-Mont.), Bob Corker (R-Tenn.), Jon Kyl (R-Ariz.), Ben Nelson (D-Neb.), Tom Carper (D-Del.), Pat Roberts (R-Kan.), Chris Coons (D-Del.), Mike Lee (R-Utah), and Pat Toomey (R-Penn.) introduced legislation, the Debit Interchange Fee Study Act (S. 575), that would suspend the implementation of the Fed rule for two years.

The bill also mandates that a study on debit interchange fees be conducted by the Fed, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. The outcome of this study is virtually guaranteed to be flawed, given the parameters outlined by the bill.

Companion legislation (H.R. 1081) has been introduced in the House, by Rep. Shelley Moore Capito (R-W.Va.) and 27 cosponsors.

NSBA is ardently opposed to these efforts, which clearly are aimed at preventing the rules from going into effect rather than illuminating the issue. The swipe-fee system already has been the subject of three separate U.S. Government Accountability Office reports and nine Congressional hearings.

The Durbin amendment and the proposed Fed rule are beneficial to America's small businesses. Further delay, equivocation, and another big-bank handout are not.

FEBRUARY 28, 2011.

To: Members of the United States Senate; Members of the United States House of Representatives

From: The 185 undersigned national and state trade associations on behalf of the companies and customers we represent

Re: Debit Card Swipe Fee Reforms—Allow Implementation to Move Forward

The Merchants Payments Coalition, representing 2.7 million stores and their 50 million employees, urges you to oppose any efforts to amend, repeal or delay swipe fee reform. Derailing swipe fee reform would take more than $10 billion per year out of consumers' pockets and kill more than 95,000 new jobs.

Big credit card companies have created a prim-fixing regime that benefits the largest banks, including ''too big to fail'' institutions that have received hundreds of billions of dollars in federal bailout money, at the expense of Main Street merchants and consumers.

Small merchants in your community are powerless against the big credit card duopoly. The card companies and big banks have not and will not negotiate with businesses over swipe fees. As a result, these fees:

Have tripled over the last 10 years;

Largely benefit the 10 biggest banks;

Are the second highest expense many small merchants face after labor costs; and

Are rising faster than health care costs.

This issue is unlike any other we have faced in business. We have repeatedly sought to negotiate with the card companies to reform this broken market and bring savings to our customers.

Fifteen years later, we have concluded that normal market forces cannot and do not work in a broken market with price-fixing among banks controlled by a duopoly. So we reluctantly came to Congress.

After seven hearings in the House, two of which were held since passage of the debit card reforms, a bi-partisan markup in the House, and two hearings in the Senate on the issue, legislation passed the United States Senate last summer by a strong bi-partisan 64 to 33 vote with 17 Republicans supporting the amendment. Changes were negotiated and adopted during the conference process before the bill was signed into law.

The law directs the Federal Reserve to prescribe regulations regarding interchange swipe fees on debit card transactions and requires that the Federal Reserve establish standards for assessing whether an interchange swipe fee is reasonable and proportional to the cost incurred by the issuer with respect to the transaction. After a lengthy and thorough process conducted by the Federal Reserve of survey design and collection, conference calls, meetings with various groups, and survey analysis, the Board of Governors voted unanimously in favor of publishing a proposed rule on this subject. We see the proposed rule as a compromise of the ideas advanced by the banks and networks and the ideas advanced by the merchants and consumers.

The statute further directs the Fed to publish a final rule by April 21, which would take effect on July 21. The Fed has indicated that it intends to meet these deadlines unless Congress directs otherwise, We strongly urge you not to support delay and to allow the rule to take effect as scheduled.

Swipe fee reform has been a key vote for each of our associations every time it has been considered and will continue to be. We would urge you to learn more about the issue, listen to all sides, and not sign letters or support legislation that seek to delay; repeal or modify the proposed rule.

We urge you to stand with your small Main Street merchants and their customers and allow swipe fee reforms to take effect on time.

Sincerely,

THE UNDERSIGNED NATIONAL AND STATE TRADE ASSOCIATIONS.

UFCW,
Washington, DC, March 28, 2011.

To All Members of the United States Senate

DEAR SENATOR: On behalf of the United Food and Commercial Workers International Union (UFCW) and our more than 1.3 million members, we encourage you to oppose any effort to delay or repeal the implementation of ''swipe'' fee reform, also known as interchange fee reform.

More than one million of our members work in the supermarket and retail industry where swipe fees are a growing cost of business and a concern for the continued success of this important industry. Each time that a UFCW cashier swipes a debit card, the supermarket is charged a percentage of the sale. That fee, hidden from customers, is reflected in higher prices, which in turn impacts our members and customers each day.

The banks and card companies want these fees to remain hidden so that they can continue to reap large profits and subsidize the costly benefits and rewards that they give to their wealthiest cardholders. Make no mistake, the banks and card companies want to delay the swipe fee reforms so that they can continue to charge more than $1 billion in swipe fees for each month of delay.

But most importantly, delaying swipe fee reform will also delay the creation of thousands of jobs each year that would result from reduced interchange fees.

This reform is long overdue for working Americans everywhere. Our members have paid the price for rising interchange fees for far too long.

A bipartisan group of 64 Senators courageously passed this important swipe fee reform in 2010. UFCW respectfully asks that you oppose any efforts to delay these reforms and allow the Federal Reserve rule to take effect on schedule later this year.

Sincerely,

JOSEPH T. HANSEN,
International President.

MARCH 8, 2011.

Hon. JOHN BOEHNER,
Speaker, House of Representatives, Washington DC.
Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington DC.
Hon. NANCY PELOSI,
Minority Leader, House of Representatives, Washington DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington DC.

TO THE BIPARTISAN CONGRESSIONAL LEADERSHIP: The National Association of Chain Drug Stores and the National Community Pharmacists Association are writing in support of the implementation of the Durbin Amendment, which was included in the Financial Reform legislation enacted last year. The Durbin Amendment limits the fees charged to retail merchants on debit card transactions (known as ''swipe fees'') to a level that is ''reasonable and proportionate'' to the costs incurred by the banks and credit card associations to process these transactions. The amendment also allows retail merchants options on how their debit card transactions are routed for processing, which provides market competition for this part of the process.

The law requires the Federal Reserve to write rules to enforce the ''reasonable and proportional to cost'' requirement by July 2011, although the precise date for enforcing the routing rule is left to their discretion. At this point, the Federal Reserve has issued draft regulations on what is to be considered reasonable and proportionate, and they have closed the comment period on the rules.

We believe it is imperative that this process of writing and issuing final regulations continue as required by the law. Debit and credit card interchange fees currently total close to $50 billion annually for retailers. The timely promulgation and enforcement of the regulations will assure the beginnings of reform for both debit and credit cards to assure that fees are ''reasonable and proportionate'' for retailers and the customers they serve in a highly competitive marketplace.

We request any assistance you can provide in ensuring the timely completion of the final regulations and the enforcement of the Durbin Amendment, and ask you to communicate that position to the Federal Reserve.

Please contact either Paul Kelly or Anne Cassity if you have any questions.

Sincerely

STEVEN C. ANDERSON, IOM, CAE,
President and Chief Executive Officer, National Association of Chain Drug Stores.
KATHLEEN D. JAEGER,
Executive Vice President and Chief Executive Officer, National Community Pharmacists Association.

NATIONAL ASSOCIATION OF COLLEGE STORES,
Oberlin, OH, March 18, 2011.

DEAR SENATOR, On behalf of the National Association of College Stores and the undersigned associations, I am writing to ask you to not co-sponsor and to oppose S. 575, the Debit Interchange Fee Study Act of 2011. This legislation would delay and effectively kill debit card fee reforms scheduled to go into effect this July; reforms that will have a positive impact on colleges, universities, elementary and secondary schools, and the students and parents they serve.

Headquartered in Oberlin, Ohio, NACS is the professional trade association representing the collegiate and K–12 retailing community. We represent more than 3,100 collegiate and elementary and secondary bookstores including school owned and operated bookstores, non-profit student owned cooperatives, small privately owned bookstores, and contract managed bookstore companies. NACS member stores serve nearly 95% of America's 17.5 million college students while supporting the academic missions of education institutions.

Last year Congress enacted reasonable and measured reform to the swipe fees that colleges and universities, K–12 schools, and other non-profits, and small family owned businesses pay Visa and MasterCard and the big banks every time a student, parent, or alumni pay or donate at these institutions and at collegiate and K–12 retail stores. In fact, according to a recent report by the National Association of College and University Business Officers found nearly ⅓ of all tuition and fee payments made to colleges and universities and nearly half of all tuition and fee payments made at community colleges in 2009 were subjected to excessively high interchange swipe fees.

Credit and debit purchases account for more than $100 million annually in interchange fees paid by college bookstores and their student and parent customers. Excessive swipe fees that would otherwise be returned to students through lower prices, grants, and student services are being misdirected towards credit card companies and large banks.

Congress established a lengthy, deliberative, fair, and open process for the Federal Reserve to carry out needed debit swipe fee reforms and that process is still ongoing through July, yet S. 575 is an attempt by the big banks to derail this process indefinitely. Every month of delay means higher costs for students and parents at a time when schools are being asked to do more with less funding.

We strongly encourage you stand up for education institutions, collegiate and K–12 retailers and our student and parent customers by not co-sponsoring S. 575, the Debit Interchange Fee Study Act of 2011, and also opposing any efforts to move this bill in the Senate.

Sincerely,

BRIAN E. CARTIER, CAE,
Chief Executive Officer.

Mr. DURBIN. In closing, I know what I am up against. Don't take on Chase and all the big banks of America—the ones that have the lion's share of these debit cards—and Visa and MasterCard and not get suited up for battle. This is a darn important battle. It will test beyond the wisdom or justice of this proposal; it is going to test who owns the United States Senate. Is this a Senate that is willing to stand up for small business across America? Is this a Senate that is willing to say we will fight for consumers even at the expense of the profits of the banks and credit card companies?

I think consumers across America know on which side we should be. I hope we will be. We were last year, with 64 Senators, Democrats and Republicans, joining to stand up for small businesses and large businesses alike, retailers and merchants. I know the big banks and credit card companies have enormous resources, and they have a reach in every direction. I know they are running commercials and sending an army of lobbyists to Capitol Hill. They also have allies in the Senate. They will pull out all the stops to roll back any effort to curb their abusive practices.

I want my colleagues to know I think Main Street is worth standing up for—certainly, when it comes to their fights with Wall Street. Small businesses, consumers, universities, labor unions, and merchants are sick and tired of the banking industry's tricks, traps, and hidden fees. They want fees they can see, and they want them set up in competition, not fixed by credit card companies. They want the Wall Street banks to play by the same rules of the road that the Main Street businesses play by every day, and I want that too. I hope the Senate does as well.

I urge my colleagues not to let the big banks and credit card companies avoid accountability for 2 more years. In the name of a study, do not give a $30 billion handout to the biggest banks and credit card companies in America. That is exactly what the amendment filed on the Senate floor will do. Do not delay interchange reform. Do not delay swipe fee reform. Don't give those banks another multi-billion-dollar handout with no strings attached.

I urge my colleagues to let the Federal Reserve do the job that was sent their way. Let them move forward with the important process of swipe fee reform.

On behalf of businesses and merchants all across America, they are counting on the Senate to be on their side to help them in reaching profitability and making sure their savings are passed along to consumers and in being the No. 1 engine for the creation of new jobs in America. Our question is, Whose side are you on? I am on the side of small business and Main Street. I hope my colleagues will be as well.

I yield the floor.

The PRESIDING OFFICER (Mr. COONS). The Senator from Massachusetts is recognized.

APPROPRIATIONS

Mr. BROWN of Massachusetts. Mr. President, I enjoyed the previous speaker's presentation. I come to the floor to talk about the ongoing negotiations between the White House, Speaker BOEHNER, and my colleagues in the Senate regarding the appropriations for the current fiscal year.

Since the beginning of the 112th Congress, the House and Senate have been trying to find common ground to finish the appropriations for fiscal year 2011. Instead of reaching a long-term compromise, we passed no fewer than six short-term continuing resolutions.

Not only does that disrupt our military men and women who are trying to serve but also every other facet of government and people's lives throughout this country. The funding resolutions that provide little in the way of addressing our staggering deficit have little certainty with our trading partners and absolutely no certainty whatsoever to the world market in terms of our ability to manage our Nation's finances.

Sadly, rather than reaching a workable, bipartisan solution, responsibly addressing our staggering deficit, which is expected to reach $1.5 trillion this fiscal year, our leaders have repeatedly given us false choices between continuing resolution proposals that don't go far enough to reduce Federal spending and proposals that I believe establish the wrong priorities for me and my State and many other people as well throughout this Chamber.

I believe many of the choices that were made disproportionately affect low-income families and seniors. One of my Senate colleagues, if you remember, characterized this process as a ''Hobson's choice.'' I agree. The world right now is looking for two things—the world markets, financial markets—and the people who invest in this country are looking for two things. They want us to do a lean and mean budget, get our fiscal and financial priorities in line now. They are also looking for us to tackle entitlements, whether it is military, Social Security, Medicare, Medicaid, et cetera. Then they will know that, in fact, they can invest here.

When they invest, the money will be safe and they are actually going to get a good return. When Pimco doesn't even do more bonding with America, that is a sign. When we have other countries throughout the world being downgraded by the bonding services, it is a problem. We are in this financial kind of roll to negativity. We have to get our fiscal and financial house in order right away.

I have been absolutely disappointed, and I know everybody listening in the gallery and those watching today have been absolutely disappointed by the pace of negotiations between the two Chambers. We have had FAA legislation. I want to fly in a safe plane. I get that. We have done the patent bill, and I want safe drugs and everything. I get that. We are on the small business bill now, and the Senator before me spoke—I am on the committee. I am happy to do it, and I get it. But are you kidding me? We are in the biggest financial mess we have ever been in, and we are doing everything but dealing with the financial mess.

Here we are with over a $14 trillion debt. For people listening, when I came here, we had an $11.5 trillion national debt. Now it is over $14.3 trillion and counting. The deficit, unfortunately—despite passing six different CRs and an understanding that passing it would move our negotiations further along, we are once again faced with the likelihood of a government shutdown.

I never, ever thought I would be a Senator from Massachusetts and come here and say: Oh, my gosh, I was here when they shut down the government. What do I tell the staff and the people back home? I am not going to participate in that. I am going to be a problem solver. If you are liberal or conservative, Republican or Democrat—I don't care what your party is—I am going to find solutions to try to avoid any type of government shutdown. I don't want one. Nobody I am talking to wants one.

We have to get these negotiations in perspective. We have to actually express to our leaders, as I just did, that, hey, we are concerned. I want to make sure we tackle these issues.

While the Federal budget is only a small part, gosh, I can't tell you—and Senator CARPER is here. How many times have we been in committee hearings and they are talking about wasting billions and billions of dollars—$76 billion just through one program that we are attacking.

I was in the military budget hearing the other day. It is $104 billion over budget for one weapon system. Are you kidding me? Really? It is phenomenal.

We are debating cutting, I guess, $61 billion, give or take, but we don't have a problem with going over budget $100-plus billion in various programs and wasting billions of other dollars. So, on one hand, we are fighting about a small, minute part of what we are doing, and on the other hand, we are giving away the money.

There was just a report that came out that said we are wasting billions of dollars on duplication. Executive order No. 1: Let's fix it so we don't have to worry about that, and that money we save can be used for seniors, kids, Pell grants, and all of the things people are fighting about right now. I will say, however, a government shutdown absolutely serves no purpose and is in nobody's best interest—not our country's, not the workers', and it is not in the global economy's best interest.

I, for one, stand ready to work with any Senator or any Congressman or member of the administration who wants to get together and solve these very real problems. However, I am encouraged about the recent developments in the negotiations, which was the news breaking yesterday that a possible deal is close. That is great. They are talking about $33 billion. I just cited $104 billion in one military program. In Medicare, $76 billion goes out every year just because—I am happy doing it, but the world is looking for that fix, the lean and mean budget, but also for us to get entitlement reform, eliminate the waste and abuse—commonsense things that every person in this Chamber and everybody listening does in their homes and businesses.

Why can't we treat the Federal Government like a business for once? This makes no sense to me. I am not the new guy anymore. You are the new guy, Mr. President. Congratulations for being the Presiding Officer today. Being the new guy, I hope you agree with me that we have to kind of work together—and we have tried to do that, you and I, Senator CARPER, and others—to try to find that common ground. I think we agree on the number. It is just a question of do we tackle it here or there.

I am from the approach of let's do a little of everything and satisfy every special interest and political interest and just get the problem solved. It will take real choices, tough choices right now. Everybody listening now absolutely understands that everything is on the table. We have to be fair and judicious in our cuts. How do we go from A to Z overnight? There is no transition period or no consideration for jobs, and, actually, the safety of people in some of these cuts.

I stand ready to work with each of you to do what it takes and put politics aside. Listen, is there an election this year? I don't think so, because I am looking at 2011 right now—2011, as the one year, the one chance we have to actually solve problems, folks. In 2012, we can do whatever we do in the political season. I get it. For right now, we have a great opportunity to send a message to all those folks who say Washington is broken. In Washington, it is like, you are great, you are great, everybody is great. Senator CARPER is great. He is one of my best friends here. But, listen, outside Washington, they have no clue what we are doing. They don't trust us or think we are addressing the real problems that affect our great country.

Our collective work begins by having a clear understanding of the seriousness of our budget concerns. I know we have had bipartisan meetings. I am so encouraged, as a relatively new Member, that we have had about 60, 65 people come together to hear the number. Is it fact, fiction, or real? What is it?