

Interestingly enough, and to his credit, President Obama suggests in his budget the same proposal on Part D that President Bush proposed, which was that wealthy people should pay some percentage of the cost of their premium. So one might think they would send that proposal as a free-standing initiative, at least that one, as a way to address some of the costs which are being generated and being borne by the general fund. But we have not heard that.

It is ironic, of course, that President Obama has that proposal in his budget and is not willing to send it. It may be that because Congress, under the Democratic leadership, rejected this idea 2 years ago, that they believe it will be rejected again. But let's at least take a run at it because it is a good idea, and it is very appropriate. It should be done along with some other ideas because we have this responsibility, under our own rules.

There are rules. We set them up. We said if the general fund is going to be invaded by more than 45 percent we have to come up with some way to correct that. So we ought to at least live by that. There are some ideas as to where we should go from here, rather than allowing this debt to become so excessive that, for example, it got so high that we become so irresponsible as a nation in the area of debt that we couldn't even get in the European Union. That is an irony, isn't it?

When this debt gets up over 60 percent of GDP, which it may well, probably in the next 2 years, at that point the United States would no longer qualify for entry into the European Union.

Because those industrialized States said: That level of debt is irresponsible. A government that has that level of debt is so irresponsible that we do not want you in the European Union.

In other words, Latvia or Lithuania could get into the European Union, but the United States could not. Not that we are going to apply. But that is a pretty good place to look for a standard, is it not? They are industrialized nations.

So we need to take some action. We need to listen closely and read closely the trustee's report, because it is telling us we are in deep trouble.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 1:30 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 1:31 p.m. and reassembled when called to order by the Presiding Officer (Mrs. HAGAN.)

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009—Continued

Mr. BAYH. 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. HARKIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARKIN. Madam President, I fully support the bill offered by the distinguished chairman of the Banking Committee, Senator DODD. It would create a long overdue reform of the credit card industry whose practices have been increasingly predatory and abusive. I have heard from many hundreds of Iowans who have been victimized by credit card companies. These are good people who, in the current economic downturn, have had no choice but to resort to their credit cards in order to put food on the table or to make a car payment or even help pay for college tuition. As a result, they have found themselves on the receiving end of a whole array of unfair and often outright abusive practices; things such as double billing, unwanted fees, and arbitrary interest rate increases. I applaud the Dodd-Shelby legislation for cracking down on some of these abuses. I think the legislation is a good first step.

However, this bill still allows credit card companies to charge excessive and, for millions of Americans, ruinous interest rates. Currently one-third of all credit cardholders in the United States are being forced to pay interest rates above 20 percent, sometimes as high as 41 percent. These interest rates are grossly excessive. It is time to set a reasonable limit on what credit card companies can charge.

In times past, an interest rate of 20 percent, 30 percent, or 40 percent would have been condemned by religious leaders of all faiths as being the sin of usury. People daring to charge these interest rates would have been prosecuted for loan sharking. But today the credit card industry tells us that charging people these grossly excessive interest rates is both fair and necessary. I totally disagree. It is not fair, and it is not necessary. What is more, many Iowans have pointed out to me the very financial institutions that are victimizing and squeezing ordinary hard-working Americans have already received billions of dollars from the taxpayers. Now these institutions are lending money that came from taxpayers to people at interest rates as high as 41 percent. Someone tell me, what is the logic of that? No wonder people are upset all over this country. We take their hard-earned tax dollars, give it to the big institutions. They have a credit card and in hard times they have to use that credit card for some necessities. Now they are being charged 20, 25, 30 percent interest. It is a sweet deal for the financial institution. It is nothing more than an old-fashioned rip-off of consumers.

For these reasons, I have joined with Senators SANDERS, WHITEHOUSE, LEAHY, DURBIN, and LEVIN to offer an

amendment to cap credit card interest rates at 15 percent. Yes, that is exactly what I am saying. No credit card could charge more than 15 percent interest rates. Why did we pick 15 percent as an appropriate top rate? Thanks to a law passed by this Congress 30 years ago—I was here at the time—we put a cap of 15 percent on the maximum interest charges a credit union could charge their customers. That was 30 years ago. We left a safety valve for special circumstances. This rate cap of 15 percent has protected millions of consumers at credit unions. I belong to a credit union right here in the Senate. I have always belonged to a credit union. I belonged to one in the House when I was there, and before that, in the Navy, I belonged to the Navy Federal Credit Union. These credit unions have performed a viable, good service for millions of Americans without harming the safety or soundness of the institutions and without negatively impacting access to credit for credit union members. I have been a member of a credit union all my adult life. I have never once seen them constrict the amount of credit involved to borrowers. If you need a car, you have been able to get consumer loans from credit unions.

I would also point out, not one single credit union—not one—had to line up with the big banks begging for a bailout. Not one credit union. Yet they are capped at 15-percent interest rates. Interesting, isn't it?

Credit unions have remained strong and stable despite the meltdown in much of our financial system.

Chris Coliver, a regulatory analyst for the California Credit Union League, was recently asked about the effect of the interest rate cap on his institutions—the 15-percent cap. He answered:

It hasn't been an issue. Credit unions are still able to thrive.

Of course, there may be some special circumstances under which an interest rate above 15 percent is temporarily necessary. Currently, credit unions are allowed to charge higher interest rates if their regulator—which is the National Credit Union Administration—determines this is necessary to maintain the safety and soundness of the institutions. At the present time, the NCUA, the National Credit Union Administration, allows credit unions to charge interest rates as high as—get this—as high as 18 percent, though most credit unions continue to have a top rate that is actually much lower than that, and some of them lower than 15 percent, some as low as 12 percent, 11 percent. Well, our amendment includes a similar, reasonable exception. It would allow credit card companies to charge interest rates higher than 15 percent in circumstances where Federal regulators determine that higher rates are necessary to protect the safety and soundness of financial institutions.

It seems as if this is *deja vu* all over again for me. I have been advocating

for a 15-percent cap since I was an attorney for the Iowa Consumer League in 1973, fresh out of law school. I was a lawyer for the Iowa Consumer League, and we were trying to get the Iowa Legislature at that time to put a cap of 15 percent on credit cards. So this issue has been around for a long time. As a legal aid lawyer at that time, I saw firsthand the devastation and hardship caused to Iowa families by excessive interest rates charged by credit card companies and others. Again, many of these Iowans turned to their credit cards in a time of crisis—a medical emergency, for example—but because of the prohibitive interest rates, they found themselves falling further and further behind in their payments. Some were forced into bankruptcy.

Well, it is no different today. As I said, I have received many hundreds of letters and e-mails from Iowans who have been victimized by credit card companies' abusive practices. For example, Madam President, let me share an all-too-common story from one of my Iowa constituents, and I will read it verbatim as she wrote it:

I am a single mom with a pretty good job, [for] which I am very thankful. I have 3 credit cards. Recently, I received notices from 2 of them that they were raising my interest rate due to the "economic conditions." I don't mean a little, I mean a LOT.

She capitalized "LOT."

Capital One—

We all know who Capital One is, and their credit cards—

Capital One sent me a notice that they were raising my rate from 13.9 percent to 23.99 percent. I had the option of cancelling my card and paying off the existing balance at my current rate of 13.9 percent, which I did. The other one is Washington Mutual. They were recently purchased by JP Morgan Chase. I received a notice from them a couple of weeks ago that my rate was going from—

Get this—

10.4 percent to 23.99 percent.

Now, you wonder: Here is JPMorgan Chase, operating through Washington Mutual, increasing their interest rate to 23.99 percent. Capital One increasing their interest rate to 23.99 percent. Why weren't they off just 1 percent? Why are they both exactly the same? Well, it looks as if they are all ganging up to charge the same high interest rate.

Anyway, let me continue to read from her letter. The rate was going from 10.4 percent to 23.99 percent.

I have never missed a payment or been late on either one of these. Tonight I called JP Morgan Chase and they told me I missed the deadline to say I wanted to decline the changes in my cardholder agreement. I said I wanted to close my account and pay off the existing balance at the 10.4 percent. They refused! . . . I could see it if I had missed any payments or even paid a day late, but I have NOT. This is just WRONG.

End of her letter.

Imagine that. She actually had the wherewithal to pay it off at 10.4 percent, and JPMorgan said: No. You missed the deadline.

We all get this mail. We all get this junk mail and all that stuff from credit card companies. I just throw them away. Well, maybe there is some notice in there that, oh, if it is not a bill, maybe they have sent you a notice that maybe you have to do something. Who reads all that junk mail? Nine times out of ten, it is some kind of promotion they are promoting: You can get a free airline pass or you can get a cut rate on going to Cancun or something like that. You get all that junk. Then they slip in there another little letter that says: Oh, by the way, if you do not cancel your previous agreement, we are going to do this, this, and this. Good luck in finding that out.

This constituent who wrote me would clearly benefit from the provisions in the Dodd-Shelby bill that would prohibit retroactive rate increases on existing balances in accounts with no late payments. But the larger issue remains: Why should any bank be allowed to charge an interest rate of 24 percent under any circumstances—under any circumstances? Why should banks be allowed to charge other customers interest rates as high as 41 percent—41 percent?

As I said, I support the underlying bill, but the bill will continue to let them charge those kinds of interest rates. The bill does clean up some of the other stuff, and that is why I am supporting it. But this does not get really to the nub of the problem; that is, we are allowing usurious interest rates to be charged for credit cards. We know why they are charging these interest rates. They can get by with it. It is legal. Well, the credit unions can survive and provide credit and issue credit cards to their holders and survive on 15 percent. Are you telling me these big companies cannot? Of course they can. But guess what. They probably would not be able to pay their executives \$50 million a year in salaries and bonuses or—\$50 million; I am being a piker—try \$200 million or \$300 million a year. That is what they are paid. So to keep up this lavish lifestyle for their executives, for their corporate offices, they charge 20, 30, 40 percent.

Well, as I said, take a lesson from the credit unions. Take a lesson. That is what we have to put a limit on. That is why I cannot emphasize enough that unless and until we cap interest rates, we are still going to have these problems because people will get credit cards, they will get into dire straits. This is their only way of paying a bill—to use their credit card—and something else happens, and all of a sudden they are racked up with these high interest rates.

The other thing credit card companies are doing is they are charging these high interest rates in order to be able to give credit cards to just about anyone. People get credit cards sent to them without any kind of credit checks, whether they are really credit-worthy. They get all these kinds of credit cards out there. People who are

like my constituent, who are responsible and who pay their bills on time and who have credit cards which they do pay on time and never get behind, are penalized because credit card companies are so lax and so loose with whom they give these credit cards to. So we all pay for it. Well, the credit card companies ought to be a little bit more circumspect about whom they give their credit cards to. Again, they should take a lesson from the credit unions.

So, Madam President, as I said, I support the underlying bill. But we must seize this opportunity to address the single most widespread and destructive abuse in this industry; that is, grossly excessively high interest rates. That is why I support this amendment. I urge my colleagues to vote for the Sanders-Harkin-Leahy-Whitehouse-Durbin-Levin amendment on this bill.

With that, Madam President, I yield the floor.

I suggest the absence of a quorum.  
The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

AMENDMENT NO. 1084

Mr. ISAKSON. Mr. President, I ask unanimous consent that amendment No. 1084, the Gillibrand amendment, be made pending.

The PRESIDING OFFICER. That amendment is pending.

AMENDMENT NO. 1104 TO AMENDMENT NO. 1084

Mr. ISAKSON. Mr. President, I call up the second-degree amendment I have at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 1104 to amendment No. 1084.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require the Comptroller General to conduct a study on the relationship between fluency in the English language and financial literacy)

Beginning on page 1, line 2, strike all through page 2, line 9, and insert the following:

**SEC. 503. GAO STUDY AND REPORT ON FLUENCY IN THE ENGLISH LANGUAGE AND FINANCIAL LITERACY.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study examining—

(1) the relationship between fluency in the English language and financial literacy; and  
(2) the extent, if any, to which individuals whose native language is a language other than English are impeded in their conduct of their financial affairs.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall

submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that contains a detailed summary of the findings and conclusions of the study required under subsection (a).

Mr. ISAKSON. Mr. President, briefly, I have high regard for Senator GILLIBRAND and the intent of the amendment. I also understand the practical application of what could happen. I know in my home State of Georgia, in one school system in Gwinnett County, there are 178 different languages spoken. The application of this amendment would cause, for example, in Gwinnett County, 178 different credit reports in 178 different languages to meet the intent of the law.

I respect and understand the difficulty that fluency can make in someone's ability to read and do their financial affairs. However, before we were to require of all the credit reporting agencies that they publish all credit reports and make them available in every language that could be spoken in the United States, we should conduct a study through GAO to ensure that we understand the relationship between fluency and financial affairs on the part of an individual and we understand exactly what the consequences of this amendment would be. This gives us 1 year to study and make a final decision based on facts rather than forcing an automatic imposition of credit reports being published in a variety of different languages, which could be well in excess of 100.

I, respectfully, appreciate the consideration of the Senate.

I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. LINCOLN. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mrs. LINCOLN pertaining to the introduction of S. 1030 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

Mr. BAYH. Mr. President, as you may have observed in our time together in the Senate, I do not come to the floor of the Senate to speak very often. I try to reserve my comments for matters of particular importance and urgency, matters where I think we can make a real difference and where

the debate will matter. We are debating one such issue today, when it comes to the important need, the critical need to rein in the abusive practices of credit card companies that are harming thousands of middle-class families across my State and millions of middle-class families across America.

Just this last weekend I received more than 500 letters and e-mails from my constituents, middle-class people across Indiana who are outraged because they rightly believe they have been abused by the predatory practices of credit card companies. These are decent hard-working people who ask nothing more than for a fair shake in life and, too often, they are not getting it because of these abusive practices.

I wish to take the opportunity to share with you a couple of these stories. Many of them are heartfelt. I will give an example. This one is from a single mother. She writes me:

Dear Senator BAYH, I am a single mother of a teenage boy, and I work 50 hours per week—

She is not some deadbeat, she is a hard-working, middle American—

at a job I've had for 14 years. My ex-husband quit his job out of the blue a couple of years ago and did not pay any child support for over a year.

Unfortunately, I had to turn to using my credit cards for things like groceries, gas and other bills just to keep up. If you are even 1 or 2 days late in paying your bill, these credit card companies increase your percentage rate to astronomically high amounts. Because I was struggling and a few days—not months, just a few days—late on some of my credit card payments, the percentage rates on my credit cards are now between 28 and 32 percent. I will never pay off these bills with interest rates like this!

So many people out there, including myself, are at the mercy of these unscrupulous credit card companies that can do whatever they please. There needs to be laws regulating how much these companies can charge. Americans are mired in credit cards debt that will never be paid off, no matter how hard they work and no matter how hard they try if the current practices do not change.

My economic situation will be so much better if it were not for my credit card bills. I owe probably \$15,000 now on all of my credit card bills combined, but it will take me a lifetime to pay those off because of the practices to which I have been subjected. Please fight for hard working people everywhere who just want a chance to get out from under their debt and better their financial circumstances.

I also heard from a woman in Carmel, IN, just north of Indianapolis, a few weeks ago. She had an \$8,000 balance on a closed—a closed credit card account. She was not buying anything. She had always paid her bill on time. And out of the blue one day—she had done nothing wrong—her credit card company doubled her minimum payment. She is a woman of modest means and she could not make the higher payment. She called the bank and they would not work with her, even though she had never missed a payment or been late, not once.

Soon the credit company started adding late fees and compounding her interest. Over the course of 2 years, her balance tripled from \$8,000 to \$24,000, without making a single purchase. She had bought nothing. She had done nothing wrong. And she is getting gouged like this. This is the kind of thing that has to stop.

I heard from another constituent from Middlebury, IN, another basic middle-class middle American, who received an offer from her credit card company to consolidate her balance on all of her credit cards at 4 percent.

Well, that sounded like a pretty good rate, so she accepted the offer. She never missed a payment. She had paid off half her debt, when suddenly they raised the monthly minimum payment by 60 percent. So she is paying on time, she is paying down her debt, and her monthly minimum rate goes up by 60 percent without cause or any notice.

She called customer service to complain. They said they would lower her monthly minimum payment if she would agree to have her interest rate doubled. This woman from Middlebury is a mother. She is trying to keep her head above water, and her credit card company is making life more difficult with practices like that.

Those are the kinds of things we have to stop. And those are the kinds of things I hope we will stop yet this week here in the Senate.

Here is what she wrote:

I don't know that our government can do a thing about this, but I just wanted to be heard.

Well, here is the place where her voice can be heard. Here is the place where thousands of middle-class families like hers can come for some relief. Here is the place where over 500 people who wrote about the abuses to which they have been subjected can come for some relief.

This recession has caused millions of middle-class families to resort to using their credit cards a little bit more, not because they wanted to but because they had to try to make ends meet. They are working hard, trying to get out from under this situation, and it does not make life any easier when they are running uphill because of these abusive practices.

You know, bills are sent out so late. They arrive in our mailbox and you have got 24 or 48 hours to pay the thing off or you are subjected to a late fee. That is not right. Then they start charging interest on the late fee. Interest rates can literally, because of the fine print in these bills—you know, back in the day, you applied for a credit card, it was about a one-page thing. Now it is 20 or 30 pages of fine print. And buried in there in the fine print are the provisions where companies can raise your interest rates any amount, anytime, for any reason, or for no reason whatsoever. Those are the kinds of things that need to be stopped.

Then, finally, when you are making your payments, they take the payment

you make, and rather than applying it to the most expensive part of your debt with the highest interest rate, they apply it to the lowest interest rate. Why? Because it is more profitable for them, even though it would be better to do it the other way around for you. Those are the kinds of things we have to correct.

You know me pretty well, Mr. President. I am a free enterprise person. I believe in the right of companies to make a profit, and credit card companies are no exception. But they ought to make it the legitimate, old-fashioned way, not on the backs of consumers through abusive practices. That is what we are talking about here.

This also goes to something else I am concerned about, and that is the deepening skepticism and cynicism about government in general, and about Washington, DC, in particular. They think we are all under the thumb of a bunch of special interests. Everybody sold out and nobody cares about the average person or the middle-class family anymore. This gives us an opportunity to show, to demonstrate that that is not true, to stand up for millions of ordinary people, to do what is right, to say that the free market should be allowed to operate, but you should not scam people, you should not bury fees in fine print, you should not do a bait and switch.

That is not the way you make a decent profit. That is something that ought to be against the rules. That is what this legislation would provide for. For the sake of middle-class families across States such as Indiana and New Mexico and elsewhere across America, for the sake of folks who are working hard trying to get out from under the consequences of this recession, for the sake of trying to restore some faith and trust in our system of self-government, it is important that we pass this credit card bill, to restrain these abusive practices, to stand up for middle-class families, to do right by our citizens, and to let people know that when their voices are heard, we will answer.

That is why I have risen today on this bill. I urge my colleagues to join with us in acting. I hope we will have an opportunity to do that before the week is out.

I thank you for your leadership, as well as my colleagues.

Seeing none of our colleagues present, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MERKLEY.) The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

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

#### GUANTANAMO

Mr. DURBIN. Mr. President, for the last several weeks there has been a hue

and cry from the other side of the aisle, a steady procession of Republican Senators, concerning the President's intention to close the detention facility at Guantanamo Bay. I would like to remind colleagues this is a problem President Obama inherited from the previous administration, and it is worth a few moments to review the history.

After the September 11 terrorist attacks on the United States, the Bush administration decided to set aside treaties that had served us in past conflicts. They sent detainees to the Guantanamo facility and claimed the right to seize anyone, including American citizens in the United States, and to hold them indefinitely without legal rights.

GEN Colin Powell, then the Secretary of State to President George W. Bush, objected. He said the administration's policy:

Will reverse over a century of U.S. policy and practice . . . and undermine the protections of the law of war for our own troops . . . It will undermine public support among critical allies, making military cooperation more difficult to sustain.

GEN Colin Powell, former Chairman of the Joint Chiefs of Staff, then Secretary of State to George W. Bush. Secretary Powell's words were prophetic. Guantanamo became an international embarrassment for the United States and, sadly, tragically, a recruiting tool for terrorists such as al-Qaida. The Supreme Court repeatedly held that the administration's detention policies were illegal. As Justice Sandra Day O'Connor famously wrote for the majority in the Hamdi difficult decision:

A state of war is not a blank check for the President.

Today, nearly 8 years after the 9/11 attacks, none of the terrorists who planned those attacks has been brought to justice.

After he left the Bush administration, Colin Powell spoke out publicly again. He said:

Guantanamo has become a major, major problem . . . in the way the world perceives America. . . . We don't need it and it is causing us far more damage than any good we get for it.

That is not a quote from the ACLU. That came from GEN Colin Powell, former chairman of the Joint Chiefs of Staff and former Secretary of State. A lot of others agree. Four other former Secretaries of State, Republican and Democratic, have weighed in: Henry Kissinger, Madeleine Albright, James Baker, and Warren Christopher have all called for Guantanamo to be closed. As Secretary Baker explained:

We all agreed one of the best things that could happen would be to close Guantanamo, which is a very serious blot on our reputation.

Former Navy general counsel Alberto Mora testified in the Senate Armed Services Committee, saying:

There are serving U.S. flag-rank officers who maintain that the first and second identifiable causes of U.S. combat deaths in

Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are respectively the symbols of Abu Ghraib and Guantanamo.

This was not some leftwing columnist. This is the former Navy general counsel, Alberto Mora.

Retired Air Force MAJ Matthew Alexander led the interrogation team that tracked down Abu Mus'ab al-Zarqawi, the leader of al-Qaida in Iraq. He used legal and traditional interrogation tactics which he believes are more effective than torture. Here is what Major Alexander said:

I listened time and time again to foreign fighters, and Sunni Iraqis, state that the number one reason they decided to pick up arms and join Al Qaeda was the abuses at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay. . . . It's no exaggeration to say that at least half of our losses and casualties in that country have come at the hands of foreigners who joined the fray because of our program of detainee abuse.

Let me remind those listening again, the source of this quote is not some liberal-leaning columnist, angry at policies of the United States. It is MAJ Matthew Alexander from the Air Force, a man who dedicated a large part of his life to serving our country and risking his life in its defense.

I visited Guantanamo in 2006. I left with a feeling of pride and admiration for the soldiers and sailors serving there. They are great Americans doing a tough job in a very bleak climate. But they are being asked to carry a heavy burden created by the previous administration's policies, which have turned Guantanamo, sadly, into a recruiting poster for al-Qaida.

By 2006, even former President George W. Bush said he wanted to close Guantanamo Bay. He acknowledged the problem. He didn't do anything to solve it.

As an aside, it is interesting to note that there were no complaints from the Republican side of the aisle when President Bush said he wanted to close Guantanamo. The Republican leader of the Senate did not come down to the floor to object when his President made the suggestion. He started making a regular trip to the floor to object when the suggestion was made by President Obama.

President Obama has shown courage in taking on this difficult challenge. Within 48 hours of his inauguration, President Obama issued executive orders prohibiting torture, stating that Guantanamo will be closed within 1 year and setting up a review process for all detainees who are currently held at Guantanamo.

Here is what President Obama said:

The United States intends to prosecute the ongoing struggle against violence and terrorism and we are going to do so vigilantly, we are going to do so effectively, and we are going to do so in a manner that is consistent with our values and our ideals.

At the signing of the Executive orders, the President was joined by 16 retired admirals and generals. These distinguished Americans issued a statement saying:

President Obama's actions today will restore the moral authority and strengthen the national security of the United States. . . . President Obama has rejected the false choice between national security and our ideals. Our Nation will be stronger and safer for it.

In response to the Executive orders, Republican Senators JOHN MCCAIN and LINDSEY GRAHAM said:

We support President Obama's decision to close the prison at Guantanamo, reaffirm America's adherence to the Geneva Conventions, and begin a process that will, we hope, lead to the resolution of all cases of Guantanamo detainees.

Keep in mind, I have just read a quote from Senator JOHN MCCAIN, a man who, of course, was President Obama's opponent in the last election, but a man who had a personal life experience of over 5 years of captivity during the Vietnam war, and a colleague of mine who has shown extraordinary courage and political courage and leadership in leading the effort to say, once and for all, that we were going to prohibit torture as part of America's policy.

It was Senator MCCAIN, along with his colleague Senator GRAHAM, who said these supportive things after President Obama's announcement. It was a strong bipartisan statement, a strong day for our country.

But now things have changed, and I do not know why. The Republicans are on the attack. They claim that the President does not have a plan to close Guantanamo, and yet at the same time they are arguing that the President does have a plan, which is to release terrorists into the United States. Imagine that. These claims are not only contradictory, they are preposterous.

The truth is, the President is taking the time to carefully plan for the closure of Guantanamo, and he is going to do it in a way that is consistent with America's security.

Here is how the Director of National Intelligence Dennis Blair explained it:

[Guantanamo] is a rallying cry for terrorist recruitment and harmful to our national security, so closing it is important for our national security. The guiding principles for closing the center should be protecting our national security, respecting the Geneva Conventions and the rule of law, and respecting the existing institutions of justice in this country. Closing this center and satisfying these principles will take time, and is the work of many departments and agencies.

In recent weeks, Republicans have regularly come to the floor of the Senate and the House to make dozens of statements criticizing President Obama on Guantanamo. The distinguished minority leader, Senator MCCONNELL of Kentucky, alone, has spoken on this issue on 9 separate occasions over the last 11 days the Senate has been in session. It is interesting that the Republicans are spending so much time focused on the fate of Guantanamo while President Obama and others in Congress are focused on getting our economy back on track after 8 years of failed economic policies.

What is the explanation? According to a recent story in Politico:

Congressional Republicans have stoked parochial fears of releasing Guantanamo detainees to the U.S. mainland, and GOP aides privately acknowledge that this issue is one of the few on which they believe they have a real edge on the Obama administration.

Somehow arguing on the floor of the Senate that President Barack Obama cannot wait to close Guantanamo and turn terrorists loose in the United States—incredible.

The Hill newspaper reported:

As polls show most Americans approve of the job Obama is doing on issues like the economy, the wars in Iraq and Afghanistan and others, Republicans are desperate to find an issue on which they can come out ahead.

In other words, the Republicans are trying to turn Guantanamo into a political issue. Richard Clarke was President George W. Bush's first counterterrorism chief. Listen to what he said last week:

Recent Republican attacks on Guantanamo are more desperate attempts from a demoralized party to politicize national security and the safety of the American people.

Let's examine two of the specific claims from the other side of the aisle. They argue that transferring Guantanamo detainees to U.S. prisons will put Americans at risk.

Well, earlier today my colleague SHELDON WHITEHOUSE—I serve on the Judiciary Committee with him—had a very interesting hearing, which I am sure will be noted by many people when they follow the news, where he talked about the detention and interrogation policies and brought some critical witnesses to testify who had dissented from President Bush's policies during the course of his administration.

During his hearing in the Judiciary Committee today, one of the witnesses was Phillip Zelikow. Phillip Zelikow was the Executive Director of the 9/11 Commission, which has received high marks from virtually everyone for the professional job they did under the leadership of Governor Kean of New Jersey and former Congressman Hamilton of Indiana. Mr. Zelikow also served as counselor to Secretary of State Condoleezza Rice. He comes to this issue with ample experience.

Mr. Zelikow was intimately involved with these issues during the Bush administration, and he strongly supports closing Guantanamo. He told me in the hearing it will be safe to transfer Guantanamo detainees to U.S. prisons and facilities, and some of the most dangerous terrorists are already incarcerated in the United States.

Here are a few examples: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombings—he is being safely and securely held in an American detention facility; 9/11 conspirator Zacarias Moussaoui; Richard Reid, the so-called shoe bomber; and numerous al-Qaida terrorists responsible for bombing United States Embassies in Kenya and Tanzania.

If we can safely hold these individuals, I believe we can safely hold any Guantanamo detainees who need to be held. I should note no prisoner has ever escaped from a Federal supermaximum security facility in the United States.

Republicans also claim the administration wants to release terrorists into our communities. What an incredible charge, and patently false. President Obama has made clear that Guantanamo will be closed in a manner consistent with our national security.

Even the Bush administration acknowledged that there are people being held at Guantanamo who were wrongly detained and who are not terrorists. Let me give you one example.

There is an attorney in Chicago who is a friend of mine who volunteered to represent one of the detainees at Guantanamo. At his own expense, he flies down to Guantanamo and meets with this man periodically. He tells me that the man is now 26 years old. He is originally from Gaza. He has been held now for 7 years—7 years—because at the time we were offering rewards to people in various parts of the world who would turn in suspects. So the money was offered. This man was turned in, eventually sent to Guantanamo.

The attorney tells me he was sent to Guantanamo at the age of 19. He is now 26. Fifteen months ago, our Government sent a message to this attorney saying: We have reviewed this case in detail—after 6 years—reviewed this case in detail. We have no charges against this man being held in detention.

This man is being held in Guantanamo, which is a very bleak setting if you have been there, and he has now been held an additional 15 months with no pending charges. Our Government did not believe he is a dangerous individual. What they were trying to do is to find a place where he can go and, for 15 months, he has been sitting in detention in Guantanamo.

Is that consistent with justice in America? Is that the kind of image we want? Of course we want to be safe. But the rule of law suggests that if the man has done nothing wrong, he should not be punished for it and continue to be in this secure setting in Guantanamo, separated from his family now for 7 years, with no charges brought against him.

Even the Bush administration, which started this Guantanamo detention, realized after some time that literally hundreds of people who were detained there were not in any way, shape, or form a threat to the United States and they were released—many of them back to their home countries.

Back in 2002, Defense Secretary Donald Rumsfeld described the detainees at Guantanamo as “the hardest of the hard core” and “among the most dangerous, best trained, vicious killers on the face of the Earth.” Those are the words of Secretary Rumsfeld. However, since that statement by Secretary

Rumsfeld, two out of three of the detainees in Guantanamo have been released. They have also cleared dozens of additional detainees for release but cannot return them to their home countries, much like the one I described, because of the risk they may be tortured if they return.

We need our allies to accept some of these detainees, but they have made it clear they will not do so unless the United States admits a small number of detainees who do not present any threat to our country.

As Senator SESSIONS, the ranking Republican on the Judiciary Committee, has pointed out, it is illegal under U.S. law to resettle terrorists in the United States—one of the charges being made on the Republican side of the aisle. Unlike the previous administration, President Obama does not believe that he can set aside any laws enacted by Congress. No one can be admitted to this country to live freely until they have been through a thorough background and security check and cleared of wrongdoing.

President Obama inherited the Guantanamo mess from the previous administration. Solving this problem is not easy. There will be difficult choices, and it will take time. But the President has shown he is willing to step up and lead and make hard decisions that are in the best interests of the security of the United States.

I applaud the President for engaging in a careful and deliberative process to close Guantanamo. As Colin Powell, James Baker, JOHN MCCAIN, and many military officials have said, closing Guantanamo will make us a safer nation.

I urge my Republican colleagues to take another look at this issue and understand that this important national security issue is best solved in a bipartisan way, and that we should continue the work of closing Guantanamo, suggested by President George W. Bush, by doing it in a fashion that is consistent with America's values.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the Isakson second-degree amendment No. 1104 be agreed to and the Gillibrand amendment No. 1084, as amended, be agreed to and the motion to reconsider be laid on the table; that the Senate then resume consideration of the Sanders amendment No. 1062 and there be 4 minutes of debate prior to a vote in relation to the amendment; that an allocation Budget Act point of order be considered made against the Sanders amendment and that Senator SANDERS be recognized to

waive the relevant point of order, with the Senate then voting to waive the point of order; that upon disposition of the Sanders amendment, the Senate resume the Gregg amendment and there be 2 minutes of debate prior to a vote in relation to the amendment; that upon disposition of the Gregg amendment, there be 2 minutes of debate prior to the vote in relation to the Vitter amendment No. 1066—I am wondering if there is any, if Senator VITTER requests any time to speak on this; we will make sure Senator VITTER has 5 minutes if he wants to speak on the amendment—that no intervening amendments be in order during the pendency of this agreement; and that all time be equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### AMENDMENTS NOS. 1104 AND 1084

The PRESIDING OFFICER. Under the previous order, amendment No. 1104 is agreed to.

Amendment No. 1084, as amended, is agreed to.

The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business for up to 3 minutes.

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

#### SUPREME COURT NOMINEE

Mr. BURRIS. Mr. President, as I address this Chamber today, politicians and pundits across the country are bracing for the spirited tug-of-war which precedes the confirmation of any new Supreme Court Justice. A list of names has appeared, seemingly out of thin air, and the media is already beginning its speculative debate on who this person will be.

Many seem eager to attack or defend potential nominees based on ideological grounds or even specific issues. I see little value in this overblown rhetoric and idle speculation. We must be careful in our approach to such an important task. I call upon the White House to give us a nominee who will provide diversity to the Court and ensure that each ruling is informed by real-life experience as well as sound legal reasoning. The greatest jurors in our history have been drawn from the Federal bench, private life, academia, and even elected office. It is these exceptional, independent leaders to whom our President must now turn.

Some will warn that any Obama nominee will be prone to political bias and judicial activism. We must be wary as we evaluate such claims. Certainly, it is right to oppose any jurist who would attempt to legislate from the bench. The Supreme Court must be bound by law and the weight of precedent. Justices must respect our Constitution and remain unbiased on all matters.

But too often, we mistake insensitivity for impartiality. We cannot afford to choose a clear record at the ex-

pense of clear judgment. Decisions such as *Brown v. the Board of Education* display compassion, not activism. *Roe v. Wade* stood on principle, not on ideology. Some call it activism; I call it courage. Our judicial history is full of these independent decisions, and we should demand such strength and integrity from every jurist we place on the bench. After all, without any kind of courage, the Supreme Court itself would hardly exist as we know it. *Marbury v. Madison* was a landmark ruling that forever altered the role of the Court. It established judicial review and laid the groundwork for almost every decision in the last two centuries.

We must oppose jurists who would overreach, but we would be well served to find a candidate with the integrity to draw on his or her God-given sense of empathy and personal life experiences.

Above all, we must ensure that he or she will bring diversity to the Supreme Court. I encourage the President to give serious consideration to naming a woman of color to the High Court. Diversity of race and gender, diversity of background, diversity of thought, and diversity of judicial philosophy—all of these qualities would bring new views and experience to the Supreme Court and would encourage healthy debate among its members, bringing new perspective to each ruling.

Any experienced attorney—and there are many of us in this Chamber—knows that finding legal truth is not easy. Few issues are black and white. Judges must sift through shades of gray to make informed decisions. Legal truth arises from this dialog, from the collision of different perspectives and opinions. In shaping the Supreme Court, we seek to build debate, not consensus.

Justice David Souter, throughout his 18-year tenure on the Supreme Court, has consistently given a thoughtful voice to the principles of fairness, equality, and the importance of precedent. He has always been a consistent advocate for “a philosophy of all philosophies” which values fresh ideas, unique perspectives, and inclusive debate. As this brilliant jurist moves into retirement, we must embrace his independent legacy by confirming someone who will bring diversity, empathy, and a powerful intellect to the bench. In short, we must ensure that he or she is worthy to be placed among the highest legal minds in the United States of America.

As a former attorney general of Illinois, I can speak to the awesome impact the Supreme Court has on ordinary citizens. It is a testament to the enduring strength of our democracy that nine individuals, appointed and confirmed by representatives of the people, stand squarely at the crossroads of justice. They are entrusted to navigate difficult legal ground in order to distinguish right from wrong and to guard the sanctity of the Constitution. When any five of these individuals

come together to hand out a ruling, it becomes the law of the land. There is no implicit threat of violence to back up these decisions—merely the quiet force of a written opinion. That is the wonder of this thing called a democracy and the power of this Court.

This is a rare and remarkable opportunity for this body to have a voice in shaping the highest court in the Nation—a court whose actions will continue to reverberate across the legal landscape for future generations of Americans. With the full weight of this serious task resting on our shoulders, I ask my fellow Senators to ignore the media's idle speculation. Now is the time to exercise our constitutional powers of advise and consent. The urgent needs of the American people demand that we think outside of the box. We must confirm an individual whose unique perspective can bring fresh diversity into the decisions of the U.S. Supreme Court. I urge my colleagues to join with me in communicating to President Obama that we will settle for nothing less.

Thank you, Mr. President. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, I wish to propound a unanimous consent request. I will try to explain it in layman's terms.

I ask unanimous consent that the Sanders amendment move from first place to second place and that the amendment offered by Senator VITTER, from Louisiana, be offered first, under the same conditions.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### AMENDMENT NO. 1066

There is now 2 minutes of debate prior to the vote in relation to the Vitter amendment. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, my amendment is very simple. It simply empowers the FDIC to come up with appropriate regulations to ensure that credit cards are only issued to folks who are in the country legally, to ensure that we don't empower and facilitate illegal aliens and terrorists and keep them from getting credit cards, which can then be used improperly. The 9/11 terrorists all did this successfully and all used credit cards in planning and plotting and hatching their scheme. It is also a boon to business for many banks that go after the illegal alien market with credit cards. That is unacceptable, and my amendment would stop that.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, if my colleague wants to proceed a little longer, this is a very important amendment. If he wants to spend another minute or so talking about it, that is fine because I will need probably more than a minute to respond. Would he like additional time?

Mr. VITTER. Not at this time.

Mr. DODD. Mr. President, I rise in opposition to the amendment. I will explain why. The basic identity verification recordkeeping requirement in this amendment is already included in section 326 of the USA PATRIOT Act. It is redundant and not necessary on this amendment.

This bill is designed specifically to deal with credit card reform. A matter such as this obviously belongs in a more appropriate place. Also, the amendment would require card issuers to verify an applicant's identity by obtaining a Social Security card, photo ID, driver's license, and a card issued by a State in compliance with the REAL ID Act.

There are legitimate issues about terrorism and illegal immigrants in the country, but it seems to me when you already have provisions in the law that are specifically designed to protect the issues being raised by my friend—to add redundancy to a credit card bill, when we are trying to make sure people can have credit, and make sure it is provided in a way that is not abusive, with interest rate hikes, penalties, fees, and the like.

I say, with respect, to my friend that, presently, applications for credit cards are currently taken by mail, by telephone, and on the Internet. This would force all applicants to physically go to the bank and present the required documents, which would cause a huge inconvenience to customers. I don't think that is in our best interest at this time. We are not trying to make it more difficult for people to have access to credit cards. We want adequate information so decisions can be made about their ability to repay, but we don't want to burden them with unfair fines, penalties, fees, and high interest rates. This idea runs contrary to what we are trying to achieve with this bill.

I say, respectfully, that I oppose this amendment and ask my colleagues to do so as well.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. I have a few points, Mr. President. This amendment will absolutely not require every applicant for a credit card to physically go to the bank. That is absolutely, categorically not true.

Secondly, present law doesn't solve this problem. It is universally recognized that illegal aliens, including terrorists, in this country, can get a credit card. Present law isn't solving that problem.

I will submit for the RECORD this article from the Wall Street Journal which talks about this. I ask unanimous consent that it be printed in the RECORD.

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

[From the Wall Street Journal, Feb. 13, 2007]

#### BANK OF AMERICA CASTS WIDER NET FOR HISPANICS

(By Miriam Jordan and Valerie Bauerlein)

LOS ANGELES.—In the latest sign of the U.S. banking industry's aggressive pursuit of the Hispanic market, Bank of America Corp. has quietly begun offering credit cards to customers without Social Security numbers—typically illegal immigrants.

In recent years, banks across the country have begun offering checking accounts and, in some cases, mortgages to the nation's fast-growing ranks of undocumented immigrants, most of whom are Hispanic. But these immigrants generally haven't been able to get major credit cards, making it hard for them to develop a credit history and expand their purchasing power.

The new Bank of America program is open to people who lack both a Social Security number and a credit history, as long as they have held a checking account with the bank for three months without an overdraft. Most adults in the U.S. who don't have a Social Security number are undocumented immigrants.

The Charlotte, N.C., banking giant tested the program last year at five branches in Los Angeles, and last week expanded it to 51 branches in Los Angeles County, home to the largest concentration of illegal immigrants in the U.S. The bank hopes to roll out the program nationally later this year.

"We are willing to grant credit to someone with little or no credit history," says Lance Weaver, Bank of America's head of international card services, whose team designed the program based in part on the bank's experience in markets like Spain, which lack conventional credit bureaus to rate a client's credit-worthiness.

The credit cards involved aren't cheap. They come with a high interest rate and an upfront fee. And the idea of catering to illegal immigrants is controversial.

Bank of America defends the program, saying it complies with U.S. banking and antiterrorism laws. Company executives say that the initiative isn't about politics, but rather about meeting the needs of an untapped group of potential customers.

"These people are coming here for quality of life, and they deserve somebody to give them a chance to achieve that quality of life," says Brian Tuite, the bank's director of Latin America card operations and one of the architects of the program.

Critics say Bank of America is knowingly making a product available to people who are violating U.S. immigration law. "They are clearly crossing the line; they are actually aiding and abetting people who broke the law," says Ira Mehlman, a spokesman for the Federation for American Immigration Reform, a group that advocates a crackdown on illegal immigration.

Typical of the new card's customers is Antonio Sanchez, a Mexican immigrant whose only major asset is a white 1996 Ford Thunderbird, which he drives to the two restaurants where he works each day on opposite sides of Los Angeles. Mr. Sanchez, who says he sneaked across the border a decade ago, has been a customer of Bank of America's East Hollywood branch for nine years. He has no borrowing history and no Social Security number.

#### PAYING BALANCES

To obtain a Bank of America Visa card with a \$500 line of credit, Mr. Sanchez had to put down \$99. If he stays within his \$500 limit and pays his balances in a timely fashion, he

will receive his \$99 security payment back in three to six months, and his credit limit might be increased.

\* \* \*

David Robertson, publisher of the report, says a rate of 21.24% is "unquestionably high." "If that's the rate you're offered, it's a pretty safe bet you're in a high-risk group," he said.

To assess an applicant, the bank employs "judgmental lending," a concept pioneered by MBNA Corp., the credit-card company that Bank of America acquired in January 2006. In essence, the bank bases its evaluation of a potential client's credit-worthiness on a subjective review by its employees, rather than on standardized financial data crunched by a computer.

Unorthodox initiatives like the new credit-card program may be crucial to Bank of America's long-term success. In the past the bank, which operates in 31 states and the District of Columbia, grew mostly by buying up other banks. Now, however, it is bumping up against a regulatory cap that bars any U.S. bank from an acquisition that would give it more than 10% of the nation's total bank deposits. That means Bank of America's only way to grow domestically is to sell more products to existing customers and to attract new ones.

#### OPENING ACCOUNTS

Bank of America, the second-largest U.S. bank after Citigroup Inc. in terms of market capitalization, estimates that there are 28 million Hispanics in its operating area and that most of them, regardless of their immigration status, don't have a bank. It hopes the allure of a credit card will persuade hundreds of thousands more Latinos to open accounts.

"If we don't disproportionately grow in the Hispanic [market] . . . we aren't going to grow" as a bank, says Liam McGee, Bank of America's consumer and small-business banking chief.

Illegal immigrants have typically relied on loan sharks and neighborhood finance shops for credit. But that has begun to change. A few years ago, a handful of community banks in the U.S. began offering mortgages to illegal immigrants, as long as they could prove they had stable employment and paid U.S. taxes with an individual tax identification number, or ITIN.

In December 2005, Wells Fargo & Co. began extending mortgages to consumers with an ITIN. The bank is currently evaluating a pilot program in Los Angeles and Orange counties before deciding whether to expand it.

Department of Homeland Security spokesman Russ Knocke said banking products aimed at illegal immigrants "reinforce the need for a temporary worker program" that the Bush administration has been promoting. That program would screen, tax and otherwise regulate immigrant workers and, the administration contends, would squeeze out illegal workers who now use forged or stolen documents to get jobs, driver's licenses and occasionally credit.

Anti-money-laundering regulations passed in the wake of the Sept. 11, 2001, terror attacks put more pressure on banks to verify customers' identity and watch for suspicious transactions, but they don't require banks to ascertain whether account holders are in the U.S. legally. Most banks require a Social Security number or ITIN to open an account, but regulations also allow them to accept other government-issued forms of identification in some instances, including passport numbers, alien identification numbers or any government-issued document with photo showing nationality or place of residence.

A handful of retailers, such as Los Angeles's closely held La Curacao depart-

ment store chain, have boosted their business by cultivating illegal immigrants with store credit cards. "Once you capture them, they become very loyal," says Ron Azarkman, chief executive of La Curacao, which has developed its own in-house credit-ratings system. "This is a promising market, as long as it is carefully managed," he says, adding that the average APR charged by his company is 22.9%.

#### WORD OF MOUTH

Bank of America hasn't launched an ad campaign for the new card. For the time being, it is counting on word of mouth that starts with its employees at each banking center. Many of the Spanish-speaking account holders who come to teller Luz Quintanilla's window at Bank of America's East Hollywood branch, already have a Social Security number and regular credit card with the bank. But she suggests in Spanish that "maybe you have family or friends who don't have a Social Security number, but wish to build their credit."

In selling the card, a major challenge is to persuade immigrants who are sometimes wary of plastic that holding a credit card is an important step on the way to obtaining loans for big-ticket items, such as a car or even a home. Pictures of a check book, credit card, car and house in ascending order illustrate this concept one pamphlet in Spanish and English titled "How to Build Your Credit, Step by Step."

Mr. VITTER. Mr. President, if this bill is about ending the problems the credit card companies create, or take advantage of, certainly their going after illegal aliens as a niche market and a profit center is an offensive problem we need to address, particularly in a post-9/11 world.

Fourth, I ask unanimous consent to have printed in the RECORD this letter from the Eagle Forum declaring that this will be a scored vote.

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

MAY 12, 2009.

DEAR SENATOR: On behalf of the thousands of Eagle Forum members nationwide, I urge your strong support of Senator David Vitter's amendment to H.R. 627, the Credit Cardholder's Bill of Rights.

Sen. Vitter's amendment would grant rule-making authority to the Federal Reserve to set forth a minimum standard for credit card issuers to establish a consumer's identity in order to prevent and deter illegal immigrants and terrorists from obtaining credit cards.

The regulations would simply require financial institutions to do the following:

Verify the identity of any person seeking a credit card account through one of four acceptable forms of identification, including a social security card, a driver's license issued by a state in compliance with the Real ID Act, a passport, or a photo ID card issued by the Dept. of Homeland Security.

Maintain records of the information used to verify the customer's identity.

Consult lists of known or suspected terrorists or terrorist organizations provided by the appropriate government agency.

Current loopholes in federal law are often abused by financial institutions. In February 2007, the Wall Street Journal reported that Bank of America Corp. in an effort to expand their Hispanic consumer base, had quietly begun offering credit cards to customers without Social Security numbers, typically, illegal aliens. In order to get around the verification requirements, Bank of America

rewarded the unidentifiable consumer with a credit card as long as they had held a checking account with any bank for three months without an overdraft violation. This program quickly spread as common practice to 51 Bank of America branches throughout the Los Angeles, CA area.

Not only will this amendment help to close dangerous loopholes, but by requiring the use of the four most secure types of personal identification, all Americans will be protected, as these types of ID are harder to forge or duplicate. This simple requirement will ensure that all future credit card accounts are opened solely by legal residents in the United States, and it will help curb the tide of taxpayer-draining illegal immigration by removing the magnet of easily obtainable credit.

Congressional leaders simply cannot allow banks to continue the very practices that so greatly contributed to the U.S. credit markets' current state. With the shrinking availability of credit today, the very least congressional leaders can do is ensure that American citizens are being placed before illegals, criminals, and terrorists.

I ask that you join us in supporting Sen. Vitter's amendment by voting yes when it is brought to a vote, and by opposing any efforts to kill it. Eagle Forum will score this vote, which will be included on our scorecard for the 1st session of the 111th Congress.

Faithfully,

PHYLLIS SCHLAFLY,  
President & Founder.

Mr. DODD. Mr. President, I ask unanimous consent for 15 more seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, it is not my opinion that this would require people to show up physically. This is the opinion of the Treasury Department. We asked them to comment on this, and they told us that. The elderly, the handicapped, and those in rural areas are going to be adversely affected if this were to be adopted. It is duplicative, redundant, and unnecessary. It adds tremendous burdens on certain segments of this country. Credit cards are valuable instruments during difficult economic times.

Mr. VITTER. Will the Senator yield?

Mr. DODD. I am happy to.

Mr. VITTER. The amendment is only 2½ pages long. What language requires an applicant to physically show up before a bank or a credit card issuer?

Mr. DODD. It is not the length of the amendment. Sometimes one or two words can have huge implications. We asked Treasury how they would interpret this, and they claim this would require the physical presence of an applicant. That is one of their concerns.

As long as that is a concern and it raises that possibility, adopting this, which could result in that, it seems to me would be an irresponsible action for this body to take.

Mr. VITTER. Mr. President, this amendment is 2½ pages long, and there is no language in it that requires their physical presence. I know this administration is opposed to the amendment, but this is simply a smokescreen. I invite Members to actually read the amendment.

I yield back my time.

Mr. DODD. I yield back my time. The PRESIDING OFFICER. The question is on agreeing to the Vitter amendment.

Mr. DODD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll. The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Maryland (Ms. MIKULSKI), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER (Mr. BURRIS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 28, nays 65, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—28

Table with 3 columns: Barrasso, Bond, Brownback, Bunning, Burr, Chambliss, Coburn, Cochran, Cornyn, Crapo, DeMint, Enzi, Graham, Grassley, Inhofe, Isakson, Johanns, Kyl, McCain, McConnell, Risch, Roberts, Sessions, Shelby, Thune, Vitter, Voynovich, Wicker

NAYS—65

Table with 3 columns: Akaka, Alexander, Baucus, Bayh, Begich, Bennet, Bennett, Bingaman, Boxer, Brown, Burr, Byrd, Cantwell, Carper, Casey, Collins, Conrad, Corker, Dodd, Dorgan, Durbin, Ensign, Feingold, Feinstein, Gillibrand, Hagan, Harkin, Hatch, Inouye, Johnson, Kaufman, Kerry, Klobuchar, Kohl, Landrieu, Lautenberg, Levin, Lieberman, Lincoln, Lugar, Martinez, McCaskill, Menendez, Merkley, Murkowski, Murray, Nelson (NE), Nelson (FL), Pryor, Reed, Reid, Sanders, Schumer, Shaheen, Snow, Specter, Stabenow, Tester, Udall (CO), Udall (NM), Warner, Webb, Wyden

NOT VOTING—6

Table with 3 columns: Hutchison, Kennedy, Leahy, Mikulski, Rockefeller, Whitehouse

The amendment (No. 1066) was rejected.

Mr. DODD. Mr. President, I move to reconsider that vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1062

The PRESIDING OFFICER. Under the previous order, a 302(f) point of order is considered made against Sanders amendment No. 1062.

There are 4 minutes equally divided prior to a vote in relation thereto.

The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I ask unanimous consent to modify amend-

ment No. 1062 and send to the desk the modification.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANDERS. This amendment is being cosponsored by Senators HARKIN, DURBIN, LEVIN, LEAHY, and Senator WHITEHOUSE. It is not being supported by the American Bankers Association and the other financial institutions that have spent \$5 billion in the last 10 years to push their interests against the needs of the American people.

This amendment is, in fact, very simple. It says now is the time to end usury in the United States of America. Now is the time to protect the American people against 25, 30 percent or more interest rates on their credit cards.

It says now, when the American taxpayer is spending hundreds of billions of dollars bailing out Wall Street, they should not be lending the American people their own money at usurious rates.

When banks are charging 30 percent interest rates, they are not making credit available; they are engaged in loansharking. That is what they are engaged in, and we should be very clear about that. Now is the time to eliminate that behavior.

We picked a number, a maximum of 15 percent plus 3 percent, under extraordinary circumstances, not because it came out of the top of my head but because credit unions in this country have been operating under that law for 30 years. And you know what. It has worked well.

It was not the credit unions coming in here for billions of dollars in bailouts; they are doing very well. This law has worked for credit unions; it should work for large financial institutions. Let's stand up for the American people. Let's put a cap on interest rates, 15 percent plus 3.

I ask my colleagues to support this amendment, once again supported by Senators HARKIN, DURBIN, LEVIN, LEAHY, and WHITEHOUSE.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I raise a point of order it violates the Budget Act.

Mr. SANDERS. I move to waive that.

The PRESIDING OFFICER. The point of order has been considered made.

There are 2 minutes under control of the opposition.

Mr. SHELBY. I yield back the remaining time.

Mr. SANDERS. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested on the motion to waive. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Maryland (Ms. MIKULSKI), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 33, nays 60, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—33

Table with 3 columns: Begich, Bennet, Boxer, Brown, Burr, Cardin, Casey, Conrad, Dodd, Dorgan, Durbin, Feingold, Feinstein, Gillibrand, Grassley, Harkin, Inouye, Kerry, Klobuchar, Kohl, Lautenberg, Levin, McCaskill, Menendez, Merkley, Reed, Reid, Sanders, Schumer, Udall (CO), Udall (NM), Webb, Wyden

NAYS—60

Table with 3 columns: Akaka, Alexander, Barrasso, Baucus, Bayh, Bennett, Bingaman, Bond, Brownback, Bunning, Burr, Byrd, Cantwell, Carper, Chambliss, Coburn, Cochran, Collins, Corker, Cornyn, Crapo, DeMint, Ensign, Enzi, Graham, Gregg, Hagan, Hatch, Hutchison, Inhofe, Isakson, Johnson, Kaufman, Kyl, Landrieu, Lieberman, Lincoln, Lugar, Martinez, McCain, McConnell, Murkowski, Murray, Nelson (NE), Nelson (FL), Pryor, Risch, Roberts, Sessions, Shaheen, Shelby, Snow, Specter, Stabenow, Tester, Thune, Vitter, Warner, Wicker

NOT VOTING—6

Table with 3 columns: Kennedy, Leahy, Mikulski, Rockefeller, Voinovich, Whitehouse

The PRESIDING OFFICER. On this vote, the yeas are 33, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Connecticut.

Mr. DODD. Mr. President, what is the business before the Senate?

AMENDMENT NO. 1085

The PRESIDING OFFICER. There is 2 minutes equally divided prior to a vote in relation to the Gregg amendment No. 1085.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment is appropriate to this bill because, after all, we are talking about credit in this bill, and the credit of the United States is obviously a severe issue for all of us, and we need to address it.

This amendment simply gives the American people a better opportunity to learn what is happening to their Government and how much debt is being run up on them and their children. It is an issue of transparency and

openness in our Government. The debt is the threat, and it is one of those occasional, brilliant ideas that come along every so often, so everybody should vote for it.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

Mr. DODD. Mr. President, there are very few Members for whom I have more affection or respect than JUDD GREGG of New Hampshire. But I think this amendment, first of all, has no place on this bill. It is unnecessary and raises some very serious, legitimate issues. Let me point them out.

First of all, it is going to be costly to do this: every agency to report what the national debt is. The number is absolutely worthless by the time you publish it because the national debt rises, of course, every nanosecond. So to have that idea what it is also gives you a false illusion of actually where we are.

The level of public cynicism about this issue is getting almost insurmountable. It seems to me we need to be far more realistic. There are other costs, as well, in addition to the debt that people care about. Why not have a tuition cost clock? Why not have a health care cost clock? These matters go up all the time as well. It seems to me that by adding something such as this, we are just adding to that illusion, adding to that cynicism at a time when there are plenty of places where you can get this information—certainly the Congressional Budget Office as well.

So while this amendment has been adopted in the past because it seems relatively harmless, the fact is, I think it is an idea that can actually raise costs and create false illusions. Certainly consumers ought to have some idea about some of these other costs, which I would object to. If you had a health care cost clock, a tuition cost clock, an energy cost clock, it could contribute to those problems. So I urge that the amendment be defeated.

Mr. SANDERS. Mr. President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

Mr. GREGG. Mr. President, I move to waive section 302(f) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Maryland (Ms. MIKULSKI), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 59, nays 35, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—59

Alexander	Dorgan	Martinez
Barrasso	Ensign	McCain
Bayh	Enzi	McCaskill
Bennet	Feingold	McConnell
Bennett	Feinstein	Murkowski
Bond	Gillibrand	Nelson (NE)
Boxer	Graham	Pryor
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hagan	Sessions
Cardin	Hatch	Shaheen
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Specter
Collins	Johanns	Thune
Conrad	Klobuchar	Thune
Corker	Kohl	Udall (CO)
Cornyn	Kyl	Vitter
Crapo	Lincoln	Voinovich
DeMint	Lugar	Wicker

NAYS—35

Akaka	Harkin	Nelson (FL)
Baucus	Inouye	Reed
Begich	Johnson	Reid
Bingaman	Kaufman	Sanders
Brown	Kerry	Schumer
Burr	Landrieu	Stabenow
Byrd	Lautenberg	Tester
Cantwell	Levin	Udall (NM)
Carper	Lieberman	Warner
Casey	Menendez	Webb
Dodd	Merkley	Wyden
Durbin	Murray	

NOT VOTING—5

Kennedy	Mikulski	Whitehouse
Leahy	Rockefeller	

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 35. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me make a couple of comments, if I can, regarding previous debates.

Our colleague from Vermont offered an amendment to deal with caps on interest rates and that failed on a point of order. I know there are others who have various ideas about this issue. It is a legitimate issue, and I want my colleagues to know this. It is a complicated issue, because dealing with credit cards, dealing with payday lenders, dealing with all sorts of different entities, the matter of what is an excessive interest rate is one that many Americans care deeply about and one where they wish to see some restraint.

It is legitimate to point out that there are interest rates being imposed today that you would have gone to jail for imposing not many years ago. In fact, it would make a loan shark blush, some of these interest rates that are being charged. So what I intend to do at some point, because I realize when you look at the votes, there were only about 30 votes dealing with the point of order dealing with the motion of the Senator from Vermont. But I think a lot of my colleagues do not feel his desire was illegitimate; they were con-

cerned about whether the rate was too low or how it would apply.

So I am going to propose—I hope along with my friend and colleague from Alabama—to ask either the Federal Reserve, or whatever else is the appropriate place, to come back and give us a comprehensive review of what national rates there ought to be.

This idea that you can end up charging in effect 200, 300, or 400 percent interest rates, which is what has happened in some cases, is offensive, to put it mildly. It ought to be wrong and illegal, and people ought not to be able to get away with it.

I think it is difficult for my colleagues to determine what is that level and what institutions, and under what financial circumstances, do you apply it to. I realize a payday lender lends money for a week or two, not annually. So the interest rate will be different than on a credit card, on a home mortgage, or what it is apt to be with a credit union. With various institutions, under various circumstances, rates can differ.

It is confusing, except that most constituents and millions of Americans would like to see some restraint. I don't know how you can possibly explain why some institutions can get away with rates that are literally triple digits in some cases. I don't think we are going to resolve that matter on this bill. But we ought to have some clear idea of how to put some restraints on national usury laws. I am not a Bible scholar, but for those who are, I am sure they can recite chapter and verse in the Old and New Testaments when it comes to the usurious rates that were being charged by money changers and the like.

At the appropriate time, I will propose an amendment that will allow us to get back to people in a short period with some analysis of how to impose some meaningful restraints on what is charged to consumers for the privilege of borrowing money when they need it, as so many do, to pay tuition, pay mortgages, keep the business operating and deal with the health care crisis, or just to survive week to week. People have been taken advantage of under circumstances that are deplorable, in my view, when the rates are particularly beyond excessive.

I think one should not read the outcome of the Sanders vote as a rejection of the idea that applying some standards of fairness is unacceptable to this body. I believe a lot of Members voted against waiving the budget point of order not because they disagreed with what he is trying to do. I would not want that vote to reflect that. I support Senator SANDERS, as I did on the budget debate, not because I necessarily agreed with the number he had in mind, but because it is an important debate and he should have had the right to be able to proceed with his amendment. I wanted to make that point overall. I think it would be a false impression to walk away and say

the Senate rejected any idea of considering some sort of a national usury rate because they rejected the waiver of the point of order that Senator SANDERS offered.

I see my colleague from Louisiana, who I think wants to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 1079

Ms. LANDRIEU. Mr. President, I want to speak for a few moments about an amendment that I ask be called up, amendment No. 1079.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU], for herself, Ms. SNOWE, Mr. CARDIN, and Mrs. SHAHEEN, proposes an amendment numbered 1079 to amendment No. 1058.

The amendment is as follows:

(Purpose: To end abuse, promote disclosure, and provide protections to small businesses that rely on credit cards)

At the end of title V, add the following:

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

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

(1) by inserting “(1)” after “(h)”;

(2) by adding at the end the following:

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

(b) AMENDMENT TO EXEMPTIONS.—

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

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

(B) in paragraph (4), by striking “\$25,000” and inserting “\$50,000”.

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

Ms. LANDRIEU. Mr. President, I call this amendment up for discussion purposes. I am open to some modification. I want to explain, basically, this amendment. I have spoken with the chairman of the committee that has proposed the underlying bill. He sees merit in this proposal, and I am grateful for that. I want to talk about what the issue is, generally, and then as we proceed to a final vote, I may be open to some modification of this amendment.

As chair of the Small Business Committee, I offer this amendment on behalf of myself and my ranking member, Senator SNOWE from Maine, who served for many years as chair of this impor-

tant committee. We have committed to try to be the very best advocates we can for small businesses in America. There are close to 30 million small businesses that are actually feeling the brunt of this recession—in some ways more than anybody, as the Chair knows. In Illinois, I am sure the occupant of the chair hears on a regular basis from small mom-and-pop operators who have been in business for decades, to the more established but relatively small businesses, restaurants, shoe repair shops, hardware stores—people who have said to me—and I am sure he hears this—“Senator, we have never experienced this kind of difficulty getting access to credit.” They are angry, and they should be. They are frustrated, because while they understand shared sacrifice, like many hard-working Americans do, they are having trouble understanding how we continue to send billions and billions of dollars to the big banks, the Wall Street companies, to the international companies, and they are having trouble seeing any of that actually hit Main Street, where they are, where they have been, and where they want to stay.

The small businesses are right around the corner and, in some instances, on the same block as the constituents whom we represent—of course, we represent them as well. It came to the attention of this Chair and our ranking member that this bill, which has a lot of merit—this amendment to consumer protection language is very important, but it has a limit that we are not comfortable with. That limit is that this credit card protection extends only to a natural person, what is defined in the law as a natural person. So it is a personal credit card that you would get that would get this benefit. I think, as chair of the Small Business Committee, representing a broad coalition, that this same benefit should extend at least to small businesses as well, to businesses that are literally trying to keep their access to capital—not just to keep themselves in business, to keep their communities strong, but to lead our Nation’s recovery. The President himself has said he expects that in our recovery—and he is correct—job creation is not going to come from the big businesses, the multinational companies; they are going to be contracting for some time, I suspect. What big business has to do to survive—I have some general understanding of that, but the big risks are going to be taken by the small entrepreneurs who, despite the gloom and doom, have decided their ideas are worth pursuing, and they are going to build this recovery one job at a time.

I don’t know why we would even be considering only limiting this help and support to private individuals and leaving small business out. I don’t think that is the intention of the chairman of the Banking Committee, as he has indicated to me. So that is basically what our amendment would do. It would simply include small businesses that

have \$25,000 on their credit card, where they are trying to stay in business, keep their lights on, keep that capital flowing, as other sources dry up, as we have heard, and extend the same protections to them.

I am open to some slight modifications because I understand there may be some objections. I am not clear about where those objections would come from. So right now, let me say again that I offered this in a bipartisan amendment from Senator SNOWE and myself. I am happy also that we are joined by Senators SHAHEEN, CARDIN, and others, who have indicated they may want to cosponsor this amendment.

I have a long list of organizations that have endorsed this concept. I will read them into the RECORD. The Consumer Action Group; Consumer Federation of America; Food Marketing Institute; National Association of College Stores; National Association of the Self Employed; National Association of Theater Owners; American Beverage Licensees; American Society of Travel Agents; National Small Business Association, which brought this issue to my attention; Petroleum Marketers Association; Service Employees International; U.S. Hispanic Chamber of Commerce; U.S. Women’s Chamber of Commerce; National Consumer Law Center on Behalf of Low-Income Clients; National Community Reinvestment Coalition. I understand that also the National Federation of Independent Businesses, the largest organization of independent businesses in the country, is poised to endorse this as well.

So we have a very credible group of organizations that think these protections for credit cardholders should not go to persons but to businesses that arguably need as much, if not more, protection as they attempt to create jobs and keep their businesses open, which is a help to all. So that is the nature of this amendment.

I understand that it is important to bring this debate to a close and, hopefully, we can get there. I do know there are probably 30 other amendments pending and this, of course, is one. I am sure we can find a time that is appropriate for this vote.

I wanted to bring to the attention of the Senate that one of the reasons this issue is becoming so important to small businesses is, if you think about it, only 15 years ago, most people who started their own business would either take out a home equity loan or they might borrow money from a rich uncle or aunt or they would dip into their savings, and this was sort of the traditional way. If they had some status or credit in the community, they could go to their local bank and they might get a loan for their business.

Those times have changed dramatically. I don’t have the charts here, but if I could show one, it would show that on the latest survey our committee took, 59 percent of all businesses in

America are using credit cards to finance their business or for their primary cash flow tool. Credit cards for businesses are different. We just had American Express testify this morning. Of course, if you have an American Express business card, their model is different. The good news is that you have unlimited amounts of money that you can borrow. The bad news is that you have to pay it off at the end of the month. So it is more of a cash management tool than it is long-term credit. However, they are useful. But there are Visas and Master Charge and Discover cards and others that people are now putting \$50,000 on the card or \$75,000 on the card or \$100,000 on the card to finance their restaurants and their printing shops and their hardware stores.

This was not true even 25 years ago. This was quite unheard of. So we have to recognize that small businesses today are relying on the good will of these credit card companies. Some of them are more reliable, in my view, than others. But regardless of whether they are doing excellent work or shoddy work—and some of them are doing shoddy work—this Government has an obligation to say let's make sure the basic consumer protections are there. You cannot raise rates without giving notice. You cannot retroactively raise rates. What we are doing for consumers is good. We need to extend it to small business.

That is the essence of this amendment. I am proud to be joined by Members from both sides of the aisle. I am going to be talking with the chair of the committee. There perhaps could be some modifications where we could agree to this amendment and not have to have a vote, but I don't know. Right now I am intending to have a vote on this amendment.

I appreciate the thousands of business owners who are supporting this amendment through these very reputable organizations that are supporting the extension of these benefits to the small businesses of America that absolutely need our action on this, this week.

I yield the floor.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd-Shelby substitute amendment No. 1058 to H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009.

Harry Reid, Christopher J. Dodd, Bill Nelson, Richard Durbin, Debbie Stabenow, Patrick J. Leahy, Patty Murray, Amy Klobuchar, Russell D. Feingold, Mark R. Warner, Jon Tester,

Mark Begich, Mark L. Pryor, Robert P. Casey, Jr., Benjamin L. Cardin, Jack Reed, Sherrod Brown.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009.

Harry Reid, Christopher J. Dodd, Richard Durbin, Bill Nelson, Debbie Stabenow, Patrick J. Leahy, Patty Murray, Amy Klobuchar, Russell D. Feingold, Mark R. Warner, Jon Tester, Mark Begich, Mark L. Pryor, Robert P. Casey, Jr., Benjamin L. Cardin, Jack Reed, Sherrod Brown.

Mr. REID. Mr. President, I have spoken to the Republican leader. He knew we were going to file these. It is no surprise to anyone.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

#### AMENDMENT NO. 1107 TO AMENDMENT NO. 1058

Ms. COLLINS. Mr. President, I call up amendment No. 1107.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, proposes an amendment numbered 1107 to amendment No. 1058.

Ms. COLLINS. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To address criminal and fraudulent monetary transfers using stored value cards and other electronic devices)

At the end of title V, add the following:

#### SEC. 503. STORED VALUE CARDS.

(a) DEFINITIONS.—Section 5312(a) of title 31, United States Code, is amended—

(1) in paragraph (2)(K), by inserting “stored value devices,” after “money orders,”;

(2) in paragraph (3)(B), by striking “; and” at the end and inserting “, and stored value devices and any other similar money transmitting devices;”;

(3) in paragraph (3)(C), by striking the period at the end and inserting “; and”;

(4) by adding at the end the following:

“(D) as the Secretary of the Treasury shall provide by regulation for purposes of sections 5316 and 5331 of this title, stored value devices, or other similar money transmitting devices (as defined by regulation of the Secretary for such purposes), unless the Secretary, in coordination with the Secretary of Homeland Security, determines that a particular device, based on other applicable laws, is subject to additional security measures that obviate the need for such regulations as it relates to that device.”; and

(5) by adding at the end the following new paragraph:

“(7) ‘Stored value’ means funds or monetary value represented in digital electronics format (whether or not specially encrypted) and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.”.

(b) CRIMINAL PENALTIES.—Title 18, United States Code, is amended—

(1) in section 1956(c)(5)(i), by striking “and money orders, or” and inserting “money orders, stored value devices, and any other similar money transmitting devices, or”; and

(2) in section 1960(b)—

(A) in paragraph (1)(C), by inserting “, including funds on fraudulently issued stored value devices and funds on stored value devices issued anonymously for the purpose of evading monetary reporting requirements,” after “funds”; and

(B) in paragraph (2), by striking “or courier” and inserting “courier, or issuance, redemption, or sale of stored value devices or other similar instruments”.

(c) MONEY TRANSMITTING BUSINESSES.—Section 5330(d)(1)(A) of title 31, United States Code, is amended by inserting “stored value devices,” after “travelers checks.”.

Ms. COLLINS. Mr. President, I ask unanimous consent the Senator from Connecticut, Mr. LIEBERMAN, be added as a cosponsor of the amendment.

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

Ms. COLLINS. Mr. President, stored value cards have been used and are being used by Mexican drug cartels to smuggle their drug revenues back to Mexico. The Department of Justice estimates that up to \$24 billion in cash is smuggled into Mexico each year from the United States and these stored value cards are one of the means by which the cash is smuggled back into Mexico. Stored value cards can be loaded anonymously by individuals who are involved in criminal enterprises, such as drug trafficking. The cards are then physically smuggled across the border and can be used to withdraw large quantities of cash from ATMs.

Under current law, cash and other monetary instruments that exceed \$10,000 must be declared at the border. For those of us who have traveled to different countries, we are very familiar with the white form you have to fill out in which you have to indicate if you have cash that exceeds \$10,000.

However, there is a loophole in the current law. Stored value cards, either individually or collectively in excess of \$10,000, do not have to be reported because they are not considered to be monetary instruments under the law. The amendment Senator LIEBERMAN and I are offering would require such reporting and make it a crime to launder money using these stored value cards.

The Deputy Attorney General of the United States has pointed out that large quantities of cash are put together and smuggled across the border to the south. He has pointed out that there are various ways this can be accomplished but that stored value cards are one of the means for smuggling this cash.

Mr. President, as you know as a loyal and diligent member of the Homeland

Security Committee, our committee has been investigating the problem of drug trafficking from these Mexican cartels. What we found is the drugs are coming north and cash and weapons are going south. By closing the loophole on reporting for large quantities of cash that are being smuggled back and forth using these stored value cards, we can help give law enforcement another tool to crack down on the smuggling of cash that is often the proceeds of criminal activity, including drug smuggling.

This is not just theoretical. It is not only the Deputy Attorney General who has pointed out that these cards can be a means of smuggling large quantities of cash but also law enforcement agents throughout the United States have been investigating criminal enterprises that are using these cards. Let me give a couple of examples.

Law enforcement agents in Dallas have been investigating a Colombian narco-trafficking organization that wanted to launder narcotic proceeds via stored value cards. The organization wanted to obtain 50 stored value cards that would be used to launder \$100,000 in proceeds. These transactions would be structured in different increments per card for the total of \$100,000. The cards would then be exported out of the United States to Colombia. The cards would be cashed out in Colombia and the dollar value would be converted to Colombian pesos at the official exchange rate.

In another example, law enforcement undercover operations have revealed at least nine transnational criminal groups engaged in moving criminal proceeds via stored value cards. These operations have revealed the cross-border movement of stored value cards loaded with millions of dollars of illicit proceeds. Numerous collateral investigations and enforcement actions have been conducted as a result of these undercover activities.

This is a loophole in our laws we need to plug and the Collins-Lieberman amendment would do that. It would treat these cards as the equivalent of cash because that is what they are. That is what they are. It would require that, just as if you crossed the border with \$10,000 in cash or other monetary instruments you have to declare it, so would you have to declare it if you have these stored value cards. In addition, it would make a failure to report the amount of money on these cards, if it is \$10,000 or more, as a crime, and it would also make it a crime to launder money using these cards.

This is a very concrete, needed action that we could take to help crack down on the smuggling of money that fuels the drug trafficking across the Mexican border. It is a very practical step we can take right now to close a loophole in the law and to provide law enforcement with a much-needed tool.

I know the managers of the bill are not on the floor at present so I will withhold asking for a vote on this

amendment. I do believe we are in the process of clearing it on both sides, but I am uncertain whether that has been completed. It may be that the acting manager of the bill can inform me.

I yield the floor.

Ms. KLOBUCHAR. Mr. President, I appreciate that from the Senator from Maine. The manager of the bill, the Senator from Connecticut, will be returning shortly.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Illinois, the Presiding Officer, be added as a cosponsor of the amendment, and I thank him very much for his support.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNET. 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. BENNET. Mr. President, I rise today to congratulate Chairman DODD and Senator SHELBY for developing the legislation we have before us. Pass this bill, and we will be able to go home and tell our constituents with confidence that the Credit CARD Act of 2009 is a groundbreaking consumer protection achievement. I am pleased that, as a member of the Banking Committee, I was able to vote for the bill in committee and help pave the way for floor consideration this week.

In my travels around Colorado, I have been struck by stories of unfair, undeserved credit card practices, hitting consumers at exactly the hardest time. Melissa Mosley of Durango, CO, told me about how tough economic times forced her to use several credit cards for purchasing supplies and day-to-day expenses for her small business. After a stretch of making minimum payments, Melissa's interest rates suddenly rose, one even reaching 32 percent. The company is refusing to negotiate, making it even more difficult for Melissa and her husband to make ends meet.

And in Cedaredge, Joy Beason is a small business owner who runs a small herbal products business. Last fall, Joy's interest rates tripled from 7.9 percent to 23 percent without notification of any kind. The high interest rates prevent her from paying down more of the principal on the card, leaving her in an endless cycle of debt.

And there's Garrett Mumma of Pueblo whose interest rate on his credit card doubled from 7.9 percent to 13.65 percent despite his solid history of payment. In a letter to me, Garrett wrote, "I only want what's fair. I want the credit card companies to honor their original agreements and not to gouge the American people when they are already suffering so much from the present economic crisis."

These struggles paint an unacceptable picture. We need to rein in abusive practices and create a new set of rules that works for Colorado consumers.

According to a Pew Safe Credit Cards Project study, 87 percent of cards allowed the issuer to impose automatic penalty interest rate increases on all balances, even if the account is not 30 days or more past due. And 93 percent of cards allowed the issuer to raise any interest rate at any time by changing the account agreement.

I am voting for this bill because it protects consumers from excessive fees, ever-changing interest rates where you do not even get notice, and complex contracts intended to confuse you until you give up even trying to understand.

It protects consumers by establishing fair and sensible rules for how and when credit card companies can raise interest rates. Card companies must give 45 days' notice before increasing rates, and can no longer do so on existing balances.

It cracks down on abusive fees. Consumers no longer will have to pay a fee just to pay a bill. And credit card companies must mail statements 21 days before the bill is due, instead of the current 14 days, so cardholders can avoid hefty late fees. It also stops credit card companies from raising rates on a consumer's existing balance because of a payment issue with a separate credit card. These reforms will save some families thousands of dollars a year. And all Americans will be able to access better information to make important financial decisions.

I also want to take one moment in particular to highlight the importance of a new provision in the bill that connects the dots for some of our younger borrowers. The bill provides for consumer literacy education classes, so that when a young person does not have a parental cosigner, and cannot show ability to repay, they can at the very least approach the credit card system with some understanding of the potential dangers they are facing. I am all for consumer choice, but we need our young people making informed choices before they find themselves in a world of debt.

I believe more educated young consumers will stay solvent, stay debt free, learn the value of saving, and make better decisions for their future.

At the same time, this legislation is not doing anything that the industry has not known was coming. It builds on rules that the Bush administration scheduled to go into effect in mid-2010.

The industry will adjust. In a few instances, it may not be seamless. But this is one moment when we all need to band together and remember that Main Street matters.

People in Colorado are struggling, they cannot afford a sudden hike in their interest rates that they were not informed of and could not do anything to avoid. No longer. I stand proudly with Senator UDALL, who has worked to protect consumers from credit card company excesses for years, in urging the full Senate to stand together, break through the partisan divide and come together and pass the Dodd-Shelby legislation.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, before our colleague from Colorado departs the floor, I want to thank him. I mentioned Senator BENNET earlier today in my comments about some new additional Members: Senator MERKLEY and Senator WARNER.

I say to the people of Colorado, as I did earlier about our colleague from Oregon, we are so fortunate to have the Senator in the Chamber at this time. I feel particularly fortunate to have the Senator as a member of the Banking Committee. I served on the committee for some years. I have never been chairman before 2007, the last Congress. I have served under a lot of people on that committee over the years.

I hope not just the people of Colorado but the people of the country understand how fortunate we are indeed to have someone of MICHAEL BENNET's talents and background to be a member of this committee. He is a junior member of the committee, but his ideas, his thoughts, his questions, and his participation qualify him as a senior member of that committee because of the contribution he has already made in little more than 100 days of being on the committee.

So I thank him for his involvement on this bill. He is thoughtful. We have some major issues to grapple with in the coming weeks. The modernization of our financial regulatory structure and the architecture of that is going to be one of the largest and most important debates this committee and maybe this Congress will have engaged in in years, considering how important financial services are to our economy and the world's financial stability.

MICHAEL BENNET brings to that chair he sits in as a junior member of the committee years of valuable experience in helping us decide what steps we should take, the configuration that architecture should be, so that we can move ahead with thoughtfulness and with a certain amount of care and caution as we try to set up a system that will avoid the pitfalls that created the problems we are in today.

So I am particularly grateful to him for his involvement on this bill. But I would be remiss if I did not say to my colleague, MICHAEL BENNET, he has been a significant contributor to the

work of this committee since the moment he arrived. I thank him for that and appreciate his continuing involvement. I am grateful to the Senator for his support of this bill. I look forward to working with him for a long time to come on these and other matters before the committee. I thank the Senator.

I want to also kind of review the bidding a bit as to where we are this evening. I will begin by thanking the majority leader, Senator HARRY REID of Nevada, who has created the possibility for us to bring up this important piece of legislation.

While my name and that of Senator SHELBY are at the top of the page as the authors of the substitute, that is an unfair characterization because so many people have been involved on our committee, and others in this Chamber, who care about these issues and have for a long time.

I am very grateful to Senator SHELBY, with whom I work very closely on the Banking Committee, and his staff and how well they work with mine in helping to shape a bill like this, a substitute like this.

We are dealing with some very egregious violations of consumer protection. They did not happen overnight; they have been growing over the years; and they reached a point where I cannot think of anyone who has not been either affected directly themselves or had family members or children or their parents or neighbors and friends adversely affected by these practices by the issuing community generally.

There are some who do a very good job. I probably should say this more frequently. We talk about the credit card issuers, the credit card companies. The behavior is not only unacceptable, it is not only irresponsible, it is offensive. There are other ones that do a good job.

Like all matters before us, when we talk about an industry, there are those who perform admirably and well and care about the people they serve, and there are others who could care less what happens as long as they get money out of the pockets of those to whom they have lent some money.

But we write laws to protect those people against those who would do them harm. So we are trying to shut down a practice that goes on too often: when there are 70 million accounts whose rates have gone up in an 11-month period; when there are fees and penalties that have brought in billions of dollars, exorbitant fees and penalties, way beyond any proportionality to the offense committed—of being a day late, an hour late, in some cases, for the first time ever.

Samantha and Don Moore from Guilford, CT, were here today to talk about their experience. I have listened to them in the past. It showed courage for them to step up. For 40 years—40 years—Don Moore has been doing business with his credit card company, 40 years. Without any violation, any late fees whatever, one time 3 days late,

around the Christmas season, the Moores found that their interest rate went from 12 percent to 27 percent; their credit limit from \$32,000 to \$4,000.

The Moores run a small business in my State. They use their credit card as a way to function in their small business. They pay their employees; they buy inventory. Without any real violation other than to be a few days late for the first time in 40 years, the Moores watched their rate double, more than double, from 12 percent to 27 percent and watched their credit limit drop from \$32,000 to \$4,000.

That is the kind of behavior that is not the rare exception. Virtually every one of my colleagues can tell similar stories about people in their States.

I know the Presiding Officer could as well from the State of Illinois. May 13, as we gather a day or so away from adopting legislation that will prohibit those practices, that you cannot change these rates arbitrarily. You get notice of 45 days. These introductory rates have to be in place for at least 6 months before you can change them. You must notify a person of late penalties or fees 21 days in advance, giving people opportunity to respond; no charging higher interest rates on existing balances the way they do today; no raising rates because you may be late on a utility bill or a car payment having nothing to do with your credit card; no continuing to charge rates when you have paid off a substantial part of your balance and a small amount remains and yet the card applies that interest payment on the entire amount you owed earlier.

For example, you owe \$1,000, you pay off \$900, the credit card companies were actually charging interest rates not based on the \$100 that remains but on the full \$1,000 until all of it is paid off. Those are not isolated examples of abuses by credit card companies. They are widespread. There are other such examples that go on that have been very harmful to consumers.

In this legislation, we give the consumer the power to decide what the circumstances are as to whether they want a credit limit or whether they want that limit to be exceeded. I remember the days not long ago when if you exceeded your credit limit, the clerk in that store or that waiter in the restaurant might politely suggest the credit limit has been exceeded and you might want to return the product. It is more difficult in a restaurant since the bill usually arrives at the end of the meal, but, nonetheless, I am sure many who may be listening can recall similar instances. That is no longer the case because the issuing companies have discovered they make a lot more money by charging exorbitant fees and penalties because you might be \$10 or \$20 or \$50 over your limit.

The point there is a legitimacy in their mind to absolutely load you up with penalties and fees. In fact, they welcome the opportunity that you may be a little bit over your credit limit,

rather than being responsible and giving you the opportunity to decide whether you want to actually acquire that particular good or purchase. Today we have changed that. We let the consumer decide. We begin by saying there will be credit limits. If you want to opt out of that, you can. But it gives you the opportunity to be notified when you are going to exceed that limit so you don't find yourself behind the 8 ball and paying penalties you would rather not pay and would like to be notified when that is the case.

Imagine this: Here we are a decade into the 21st century. My 7-year-old runs a computer at home. My 4-year-old is trying to figure it out. Credit card companies want to charge fees if you pay your bills electronically. You can file your income taxes, you can engage in all sorts of economic behavior through the Internet today. But credit card companies want to penalize you if you pay your bills electronically or by phone or by some other means other than mail. Again, it is a further egregious example of an industry that is more interested in trying to trip you up, trying to make it more costly for you to use their cards than they are trying to assist you economically.

I could go on for the entire rest of the evening citing story after story in my State, as I am sure every other Member could, examples of abusive, outrageous behavior.

We have spent a long time over these last number of weeks and months talking about what needs to be done to get banks and other financial institutions in shape. I don't regret that. That was the right thing to do. But it is long overdue that we also try to do something on behalf of the people who utilize these services, whether it is trying to mitigate foreclosure of their homes or trying to see to it they don't get ripped off by a credit card company. In the next 48 hours, we are going to do that for the first time in the history of this body.

Twenty years ago, I started on this issue. I never got much more than 30 votes. When the bankruptcy reform bill was up, I tried to deal with credit cards. It got 32 votes. I tried to do some of the things for which I believe we will have an overwhelming vote in the next day or so. I believe our constituents will welcome the fact that the Senate of the United States, along with the other body which has acted on this issue already, is responding to their concerns. They are talking about it every day. They are wondering whether their interests will be part of this debate. This bill may not do everything everyone would like, but I believe it is a major step in the right direction. It addresses many of the major concerns raised over these many weeks and months and years that these matters have been growing in terms of their impact on people and their ability to survive on a daily basis economically.

Again, I thank my colleagues from the Banking Committee, Democrats

and Republicans, Senator SHELBY, former chairman of the committee. We got it out of committee by one vote. The Presiding Officer is a member of the committee. By a vote of 11 to 12 we happen to be here. We would have lost this issue had we lost one other vote. But our colleagues in the committee stood with us and, by the thinnest of margins, we were given the right to be here tonight to talk about this.

The vote of this body will be far greater than a one-vote margin when it comes to passing this legislation. We have an American President who has been utilizing the Office of the Presidency to talk about this issue. He has had press conferences, met with consumers. He talked about it on his radio broadcast on Saturday. He is creating the kind of environment where this legislation will become the law of the land.

I may not get many more opportunities, with the amendments to be considered tomorrow, to address the overall consideration of this bill.

Let me say that to the card companies as well, I appreciate the fact that they have been at the table as we have worked through this. I have not isolated them. I allowed them to make their cases where we were doing things that may have gone further in terms of serving the needs of our consumers and constituents. This is a bipartisan bill. That is something I try to achieve on every matter I am involved in directly. I don't think you can do much in this Chamber without having to reach out to each other and listen. We have done that.

To Senator SHELBY's great credit, he has joined in this effort so we have the bipartisanship our colleagues seek. I believe we will pass this legislation and provide some relief for the people of our country at a time when they need it desperately. There has never been a moment in recent past history when constituents and the citizens of this country needed more help from their Government, whether it is home foreclosures, a loss of jobs, tuition, health care problems—all of those issues are affecting millions of people. While this bill will not solve all the problems, for the first time ever it will provide some relief in a very important area—the availability of credit and the use of credit cards and the need that people have on a daily basis to have access to that credit to provide for themselves and their families.

I see my good friend and colleague from Nebraska.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my colleague from Connecticut and extend to him appreciation for an outstanding job with this credit card bill. He has done outstanding work bringing the parties together, putting together a bipartisan effort. I congratulate him on that and look forward to having him move forward.

#### MEASURING PROGRESS IN AFGHANISTAN AND PAKISTAN

Tonight I rise to discuss the administration's supplemental funding request for the ongoing challenges in Afghanistan and Pakistan. The administration is putting in place a new strategy for that region, and it comes at a crucial time. U.S. diplomats, military servicemembers, humanitarian groups, and our coalition partners have all worked to battle terrorists and establish more stability in that region since the terrorist attacks of 9/11. Yet today, al-Qaida and the Taliban, along with other extremist allies, remain a destabilizing and dangerous force. Across the region, there is too much violence, too much social and economic turmoil, and too little opportunity in the lives of the Afghan-Pakistani people.

The administration's strategy is undergoing modifications as we speak. I support the move this week by Defense Secretary Gates to select a new United States military commander for Afghanistan. In my view, it is vitally important we get both the evolving strategy right and that we have the right way to assess the strategy going forward.

Since early this year, I have pressed the administration and military officials on the issue of developing progress measurements for Afghanistan and Pakistan. I have been pleased to hear their support. We have heard the administration is developing standards and measurements to evaluate a strategy for the region, at least internally. We need to go further.

My purpose is straightforward. It is an outgrowth of bipartisan work that I undertook several years ago during the war in Iraq. I was troubled because many people seemed to be looking at the same set of facts during several sessions of terrible violence, but one group concluded that we were losing while another determined we were winning. In response, I helped draft bipartisan legislation with Senators JOHN WARNER, SUSAN COLLINS, and Senator CARL LEVIN that Congress approved and President Bush signed into law. We established 18 benchmarks or measurements of economic, military, and diplomatic efforts in Iraq. The benchmarks helped Congress and the American people gain a better understanding of our successes and our challenges in Iraq. They helped play down a partisan debate over whether we were winning or losing.

One important point I would like to make tonight is we didn't dictate what the benchmarks should be. They were suggested by the administration, military leaders, and the Iraqi Government. We did require the administration report to Congress, and the reporting provided valuable and objective information to the American people about how things were going in Iraq, from efforts to reduce insurgent attacks to the Iraqi Government working out distribution of oil royalties.

Just as I didn't support tying the previous administration's hands in Iraq by