

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### DEBIT CARD INTERCHANGE FEES

Mr. TESTER. Mr. President, I rise today on behalf of rural America. All of Montana is rural America. Despite good intentions, rural America too often gets overlooked when we pass bills here in the Senate.

That is what happened when this body passed an amendment limiting debit card interchange fees last year. It was an attempt to address a problem. But like people on both sides of the aisle, I voted against it. I knew it was a mistake because it had unintended consequences that would hurt rural America.

It is a mistake now. Since we took that vote, the regulators have said that the small issuer exemption for banks and credit unions with assets of less than \$10 billion—which is what that amendment said and the reason why many Members supported the amendment—simply won't work.

In a Banking Committee hearing back in February, Chairman Bernanke said:

We are not certain how effective that exemption will be. There is some risk that that exemption will not be effective and that the interchange fees available through smaller institutions will be reduced to the same extent that we would see for larger banks.

At that same hearing, FDIC Chairwoman Sheila Bair, referring to small banks and credit unions, said:

I think it remains to be seen whether they can be protected with this. I think they're going to have to make it up somewhere, probably by raising fees that they have on transaction accounts.

The Acting Comptroller of the Currency has said that the Fed's proposed rules have "long-term safety and soundness consequences—for banks of all sizes—that are not compelled by the statute."

The regulators who have been tasked with implementing these rules have said they simply cannot guarantee that small issuers can be exempted from these rules—small issuers being community banks and credit unions. Market forces will drive rates down for the community banks and credit unions that are supposed to be exempt from these rules.

A lot of my colleagues, Republicans and Democrats, agree. Fortunately, we have the opportunity to fix things. I am asking for your help to apply the brakes so we can stop the unintended consequences that come with allowing the Federal Government to set the price of swipe fees on debit cards.

This morning, someone asked me: Why is a farmer from Montana leading

the charge on an issue such as this? Well, it is simple, really. I am not in this fight for the big banks. I don't think these rules are going to help the consumers one lick. The cost of a hamburger isn't going down by a few cents if this is enacted. And there are no assurances that retailers would pass these savings on to consumers. Let's just say there is a reason Walmart is dumping in a ton of money to fight against this.

I am stepping into the middle of this fight because when the government sets prices on debit card swipe fees, it is the little guys who get hurt. Rural America pays the price. Community banks and credit unions get socked. We can't afford to let that happen, and we can prevent it.

Community banks and credit unions are a critical part of America's economic infrastructure. Without them, small businesses or family farms and ranches in America would go by the wayside. When farmers and ranchers need to invest in a new piece of equipment or buy feed or diesel fuel, who do they turn to? To the community banks and credit unions; organizations such as the Stockman Bank, the Missoula Federal Credit Union, the First Interstate Bank, or Yellowstone Bank. The list goes on and on.

America's community banks and credit unions are the backbone of our small businesses. These financial institutions are the ones that help small businesses grow, help small businesses create jobs, and help keep rural America growing—not the Wall Street banks.

These rules do not allow community banks or credit unions to cover legitimate costs associated with debit card transactions. These are guys who simply don't have the means to eat the cost of debit card fees that are limited by the Federal Government—and they don't have the volume to make up this revenue elsewhere, as the big guys do.

For community banks and credit unions, this rule will only add to banking costs, and it will prevent community banks and credit unions from being able to compete with the big guys. If they can't compete with debit products, they will lose customers.

It will also limit the use of debit, pushing folks toward credit instead. Already community banks are talking about limiting debit cards to \$50 or \$100, or ending free checking, or adding new fees to ATM withdrawals—measures that will, in the end, cost customers.

This rule will further consolidate the financial industry, and that is the last thing we need in this country. But in rural America, what financial consolidation means is that community banks and credit unions will have to compete with Wall Street, with one hand tied behind their back. Not only will that hurt Montana's farmers and ranchers and small businesses, not only will that hurt the ability for rural communities' businesses to create jobs, it

could result—and I think it will result—in community banks going out of business altogether. The same is true with credit unions.

That is not what anyone would call "reasonable and proportional." Yes, there is supposed to be a "carve out" in this rule for community banks and credit unions. But both Chairman Bernanke and Chairwoman Bair tell us this exemption simply will not work.

Only in Washington will you get criticized for trying to make sure that legislation actually does what it is supposed to do. Only in Washington does this mean you are trying to "kill the bill."

Some have said this means billions in interchange fees that multimillion dollar box stores will have to pay. But truly, these rules are going to put community banks and credit unions out of business—the same institutions that are the lifeblood of rural America.

It is a fact that the folks who are going to be hurt—and this is the bottom line with this—will be the small businesses, the community banks, and the credit unions, not the big box retailers.

That is why Senator CORKER and I and a whole bunch of our colleagues on both sides of the aisle voted to stop this rule and take a look at the unintended consequences. Let's slow down, let's study the issue, and let's find a thoughtful and careful solution. If we do not do that, we will see our critical community banking infrastructure disappear. This issue is not about picking sides; it is about making sure we do not trample on the financial infrastructure rural America needs to stay in business.

I ask my colleagues for their bipartisan support on a responsible bipartisan bill. Our economy cannot afford to let this rule go into effect until we study its impacts, both intended and unintended.

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

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

#### EPA AMENDMENTS

Mrs. FEINSTEIN. Mr. President, I rise to speak in morning business.

This afternoon, quite possibly, or another time, quite possibly, we will have very significant amendments that will strip EPA of its mandate to protect the American public from pollution which threatens our public health and welfare by inducing climate change.

Specifically, I strongly oppose the McConnell amendment, which would be a complete stop-work order for the EPA to reduce carbon pollution.

I also oppose Senator STABENOW's amendment number 265, which would strip California of its right to impose tailpipe emission standards beyond Federal standards. California has had the right to go beyond the Federal standards to protect its citizens from dangerous pollution since 1970. That is 40 years.

I oppose Senator ROCKEFELLER's proposal to prevent EPA from studying, developing, improving, or enforcing Clean Air Act greenhouse gas regulations for at least 2 years. I oppose these amendments because they would allow polluters to keep polluting, they would endanger public health and welfare, and they would increase our dependence on oil. This is exactly the opposite of what we should be doing.

As the lead author of the bipartisan Ten-in-Ten Fuel Economy Act, with Senator SNOWE and Senator Ted Stevens, which passed this body by voice vote, I would like to explain why the McConnell amendment would undermine fuel economy and lead to less efficient vehicles in the United States.

The amendment would legislatively prevent EPA from acting to reduce vehicle emissions that threaten our public health after 2016, and it would also strip California of its right to protect its own citizens from dangerous pollution. The prohibition would undermine the bill we sought to pass and did pass, and it was signed by President Bush; that is, 10 miles of increased fuel efficiency in 10 years. It directed the Environmental Protection Agency and the Department of Transportation to work cooperatively to increase fuel economy and decrease pollution. This was a big win.

I began in 1993 with Senators Slade Gorton and Dick Bryan—no longer in the Senate; one from Washington and one from Nevada—and we sat right over there and tried to draft some language for a sense of the Senate—something as benign as a sense of the Senate—to begin to work on automobile fuel efficiency, and we could not get it passed.

Then Senator SNOWE and I got together on an SUV loophole closure bill. That went on for several years, and we could not get that passed.

Then there was the ten-in-ten fuel efficiency bill, and, voila, we were able to get it passed. It is going well. Cars are more fuel efficient, and the corporate average fuel-efficiency standards are being established in a much more constructive way based on science. As a result of the law, the administration has put forward the most aggressive increases in vehicle efficiency since the 1970s, increasing fleetwide fuel economy to 35 miles per gallon by 2016. The final rules will save about 1.8 billion barrels of oil and reduce greenhouse gas emissions by nearly 1 billion tons over the lives of the vehicles covered. It seems to me that is very good public policy. As a result, American consumers benefit. They will have more efficient vehicles, and they

will pay less for gas. And those savings are considerable.

This single program to reduce oil consumption and greenhouse gas emissions under the Ten-in-Ten Fuel Economy Act and the Clean Air Act results in an aggressive policy to advance the goals of both laws. The regulations also demonstrate that strong Federal standards are the best means to ensure that California and other States are not legally obligated to enforce more aggressive standards to protect the health of their citizens—a right Californians have had since 1970.

Bottom line: These harmonized standards demonstrate the success of ten-in-ten fuel economy. Despite the tremendous success of this first round of joint fuel economy and tailpipe regulations, the McConnell amendment would prevent the EPA, the Department of Transportation, and California from pursuing cooperative and coordinated standards again. Similarly, the Stabenow amendment number 265 would prevent California from participating in this process. This would halt an ongoing cooperative process to set a single set of cost-effective standards for cars, trucks, and SUVs from 2017 to 2025 which will increase fuel economy, which will reduce pollution, and which will save Americans billions of dollars.

It is backward public policy. EPA and the Department of Transportation have already conducted the technical assessment which demonstrates the significant increases in fleetwide fuel economy—6 percent annually—which is both technically feasible and cost effective for consumers. They are working to complete a single set of standards in full cooperation with California. But the McConnell amendment and Senator STABENOW's amendment number 265 would stop this effort because the auto industry would prefer to sell gas guzzlers that continue our dependence on oil, and the amendments prevent waivers that have been a part of the Clean Air Act for decades, preventing leading States such as California from doing anything beyond the national standard. So it both handcuffs and cripples corporate average fuel efficiency. It stymies it. It stops it.

California has 38 million people. We are our own pace setter. We want to work with the rest of the States to have a unified standard so that we are not our own economy, so to speak, with fuel efficiency. That is the right thing to do, and it is happening now. This would put an end to it.

The amendments prevent waivers, as I said, that have been part of this act for decades. That means that never again, no matter what the situation is, can there be a waiver for greenhouse gas emissions. It would turn back the clock on historic efforts to improve the efficiency of the Nation's automobiles and slow any future effort to reduce pollution and improve fuel economy.

Bottom line: A vote for this amendment is a vote to increase our susceptibility to oil market price spikes, let

there be no doubt, a vote to increase how much Americans will spend at the pump for decades to come—it will be much more—and a vote to increase pollution that threatens our public health.

Unfortunately, these amendments not only stop the vehicle rules, the McConnell amendment strips EPA of its authority to enforce the Clean Air Act with regard to pollutants that EPA scientists have conclusively determined endanger public health, an endangerment finding that the Supreme Court ordered EPA to make in the 2007 Massachusetts vs. EPA decision. The Stabenow and Rockefeller amendments similarly delay this action. Polluters would be able to continue to pollute, and the agency charged with protecting us from this pollution would be powerless to stop it or even limit it.

Blocking the Clean Air Act and its lifesaving protections makes no sense. This act has had a long and successful track record of reducing pollution and protecting the health of our children and our families. Since its passage in 1970, the act has sharply reduced pollution from automobiles, industrial smokestacks, utility plants, and major sources of toxic chemicals and particulate matter. In its first 20 years, the act made real strides in reducing pollution, and that provided enormous benefits for public health. In 1990 alone, the act prevented 205,000 premature deaths, 674,000 cases of chronic bronchitis, 22,000 cases of heart disease, 850,000 asthma attacks, and 18 million child respiratory illnesses.

The Clean Air Act continues to provide benefits for our children and our families. Emissions of six common pollutants have dropped 40 percent. In 2010, 1.7 million asthma attacks were prevented and 130,000 heart attacks and 86,000 emergency room visits. That is in 1 year alone, this past year. And it provides economic benefit to the United States.

Thoroughly peer-reviewed studies have found that for every one dollar spent on clean air protections, we get \$30 of benefits in return. In 2020 alone, the annual benefit of the Clean Air Act's rules is estimated to be nearly \$2 trillion.

Advocates for these amendments argue the United States cannot afford environmental protection. They continue to say we must poison our air and water in order to develop our country. I don't believe that. Pollution is a burden on our economy. It is not a force for good. Cost-effective reduction makes our Nation stronger, not weaker. We harm our economy when we ignore pollution. Time and time again, the people of California have demonstrated that we are unwilling to choose between a healthy environment and a healthy economy, because we choose both. And so should the United States.

I strongly encourage my colleagues to reject these misguided amendments,

whether they come up this afternoon at 4 o'clock or another time, that would let polluters off the hook, that would increase our dependence on oil, that would decrease the mileage efficiency of automobiles and light trucks and would harm the environment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

#### EPA REGULATIONS

Mr. ROCKEFELLER. Mr. President, all of my colleagues, I think, know by now, after all of these months, almost years, how deeply I feel about the need to stop EPA regulation for a period of time so Congress can have the time we need to develop a smart energy policy, which we have not. It is enormously important to the people of West Virginia.

Having said that—and I will say quite a lot more—I cannot tell you how strongly opposed I am to the McConnell-Inhofe amendment, not only because it eviscerates EPA from some fundamental responsibilities it has—for example, CAFE standards—but it has absolutely no chance whatsoever of becoming law—none. Mine does. Theirs does not.

Do we think we are going to pass, and the President is going to sign, something that eliminates EPA forever? Oh, they will say: Well, we can always change that in a couple years. No, it is not that. It is a theological decision to pick out a campaign issue for 2012, and that is fine because that is the way things go. But to destroy the EPA permanently is an act I have not seen since I came here. There will be people in many States, including my own, who think that is a wonderful idea, but I would ask them to think more deeply.

The McConnell-Inhofe amendment makes a point, but it doesn't solve a problem. I am here to solve problems. So is the Presiding Officer. The amendment would take away EPA's ability to address greenhouse gas emissions forever. It doesn't make any difference what happens 5 years, 10 years from now—all the nuances that have to be made in policy or in regulation; if the air starts cleaning up, maybe things can lighten up a little bit; if it doesn't clean up, maybe we have to do something. But they want to take away and put out of business forever the EPA, which looks out for the health and the safety of everyone who lives here, and it would be permanently banned from doing its job. Is this an adult amendment? It can't be.

People must only be looking at the next election, or they must be afraid.

To be afraid of voters is not a good thing. That is a quick way to lose. Telling the voters the truth—the Presiding Officer is pretty good at this—is what is more important in public policy. So they burn EPA forever. They can't do anything, no matter what we know or what we learn in the future about greenhouse emissions. They want the total elimination of EPA's role, with no other structure in place. Having nothing in place is irresponsible, unrealistic, and immature.

What we need is a timeout to stop the imposition of EPA regulations—regulations that don't allow for the development of clean technologies, and that would hurt the economy at a critical time in our recovery, but to do it in a way that keeps us all focused and working on a long-term energy policy which doesn't say close down. We should have a pause here, the pause that hopefully refreshes our ability to do clean energy policy. My bill would be effective from the date of its passage, were it to pass, so it would be 2 years. That is plenty of time to be able to come up with an energy policy. We have avoided doing that for so long now, and I think a lot of that is politics, and it is very sad.

The Environmental Protection Agency, I have to say, including to my own constituents, is not a frivolous agency. It is the object of much scorn in my State and a lot of States that produce coal and probably in the minds of a lot of Senators. It was created to regulate pollution. We think back to wartime London where people couldn't see 5 feet in front of their faces. I think back to when I was a student in Japan for 3 years at the end of the 1950s, and we couldn't see 3 feet in front of our faces. Now all of a sudden we can see for thousands of miles, so to speak, because the air is clean.

Again, the Environmental Protection Agency is not a frivolous agency. It was created to regulate pollution. That is its job. Does that make it uncomfortable? Yes. Does that make me want to pass my amendment? Yes, to have a stop for a period of 2 years where they cannot go to stationary sources and others and say that you can't do anything. It is a pause, but at the end of the pause, it doesn't put EPA out of business—that would be crazy.

It is Congress's job to legislate, and that includes energy policy—granted, stipulated. I think the Presiding Officer would say that is lawyer's speak: It is stipulated. It makes it a fact. Congress passed the Clean Air Act in 1970 and has updated it in the decades that followed. Is the Clean Air Act perfect? Certainly not. Certainly not. Very few laws ever are, which is why we are always open to making them better. But eviscerating the EPA's ability to do its job forever is nonsense. It is childlike: I will take my football and I am going home. It feels good.

Some folks will get up and cheer, standing up for coal. We know what this does. This is standing up for nat-

ural gas. We have a lot of natural gas in West Virginia. Natural gas has 50 percent of the carbon dioxide that coal does. So people think that by doing this, people are going to go ahead and burn coal in powerplants and other places. They are not. North Carolina already has 12 powerplants which are being switched from coal to natural gas—probably more by now. That was about a year ago. Ohio is doing some of the same. Other States are doing some of the same. Natural gas is abundantly plentiful. I like natural gas. It is a terrific thing. It is 50 percent as dirty as coal, but it is less dirty and it is cheaper. So powerplants are going to that.

I am trying to figure out in my mind, How does that help West Virginians? How does that help West Virginia coal operators or, more importantly to me, coal miners? If people are suddenly making up their mind that they are going—and I have had the president of American Electric Power tell me this directly: Of course we will switch to natural gas. He put it more succinctly. He said: I would use banana peels if they could produce heat. They don't stay with coal out of loyalty. They have to deal with certainty. Here we create permanent punting about what the landscape is going to be for energy use and the making of electric power in our country.

Again, may I please bring up once again that this bill has no chance of becoming law—the McConnell-Inhofe bill has no chance of becoming law. So why do they do it? They have to know that. I don't think it will pass here. It certainly isn't going to pass at the White House. In politics you can say, Oh, I wish there were a Republican President in the White House. There isn't. There is a Democratic one. He is not going to let this happen. He is not going to have an executive agency with an enormous amount to do with CAFE standards and all kinds of regulations obliterated, eviscerated, eliminated. He won't do that. He will veto it if it should ever get that far.

So what is going on in their minds? What do they think they are doing? Are they trying to impress their constituents, holding high a banner saying, Look, I am courageous; I will get rid of this whole EPA thing and we can all celebrate together? Pretty shortsighted, I would say. Pretty shortsighted. Feel good? Yes. Do good? No.

I think it is well known in West Virginia we have very serious disagreements with EPA. I say all kinds of things about the EPA constantly in all kinds of situations, but people do care about clean air. They do care about clean water also. It is not a sin. Sometimes in America you can get the best of both worlds. We want a strong future for clean coal and we want a national energy policy that protects and promotes clean coal.

Let me make a point. When I say the words "clean coal," the only hearing of that is "coal." People don't hear the word "clean." So I have to make a