

have emerged that are very clear. Throughout this debate, Republicans have consistently said that we prefer a bipartisan agreement that keeps the government running and provides critical funding and certainty for our troops. This is exactly what we have been working toward all along, and that is exactly what the bill the House Republicans are expected to pass today will do.

Importantly, this bill will also include a modest reduction in Washington spending—a reduction well within the range that even Democratic leaders have described as reasonable.

In fact, the bill House Republicans will send over to the Senate today is nothing more than a smaller version of the larger bill that Democrats say they want. So let's be specific, very specific.

The Obama administration and the Secretary of Defense have said they need an annual defense bill. The House bill we will get today does that. It passes the Defense appropriations bill. Senate Democrats have said they want the Government to keep running. The House bill we will get today does precisely that. Democratic leaders have identified a number of cuts they believe are reasonable. The spending cuts in the House bill we will get today go no farther than that. Democratic leaders have said they want no controversial policy riders. That is what we just heard our majority leader talking about. But the policy provisions in the bill we will get today are provisions that members of the Democratic leadership have already voted for and that the President himself has previously signed into law. It will be pretty hard to argue that is controversial.

Here is the bottom line: The bill does everything Democrats have previously said they want. It cuts Washington spending by an amount that Democratic leaders believe is reasonable. The policy prescriptions it contains have been previously agreed to by Democratic leaders and signed by this President. Most important, this is the only proposal out there that keeps the government open, the only one that is coming over from the House.

In other words, if a shutdown does occur, our Democratic friends have no one to blame but themselves because they have done nothing whatsoever to prevent it, since they have produced no alternative to the bill the House is sending over today. This is the only proposal currently on the table that will keep the government open.

There are two options at this point. Democrats can either take up and pass this reasonable bill that falls well within the bounds of what their own leadership has defined as acceptable or shut down the government. That is it, that is the choice. So rather than talking about a shutdown, I hope our Democratic friends join us in actually preventing one. There is only one way to do that, by quickly passing the House bill and sending it to the President for his signature before tomorrow night.

#### COLOMBIA FTA

Mr. MCCONNELL. Mr. President, the President will meet today with Colombia President Juan Manuel Santos. We understand they will announce agreement on a long overdue free-trade agreement with this important trading partner and our best ally in South America. Republicans have been urging the President to act on this and on other critical trade deals for over 2 years.

The U.S. Chamber of Commerce estimates that trade deals with Colombia, Panama, and South Korea can provide up to 380,000 U.S. jobs. We know this deal alone would create tens of thousands of new jobs here in this country. At a time when millions of Americans are out of work and businesses are looking for opportunities to hire, there was no excuse to slow walk these deals.

We hope today's meeting marks a real step forward in concluding this trade agreement with Colombia. We expect this announcement means the President will be submitting all three trade agreements—Korea, Colombia, and Panama—in the very near future. We look forward to working with him to clear them through the Congress.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business with Senators permitted to speak therein for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designees, with Republicans controlling the first 30 minutes and the majority controlling the second.

The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, it is my understanding I was granted 20 minutes under the leader's time. If that is the case, I would like assurance.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

#### FINANCIAL SECTOR REGULATION

Mr. ROBERTS. Mr. President, I appreciate the leadership, as best they can, going into greater detail on the mutual effort to avoid a government shutdown. I know all Members are vitally interested in this, as is the American public. I do happen to agree—probably no surprise—with the Republican leader in his description of the situation, especially in regard to our national security, which I think is exceedingly important.

I have asked for this time now to discuss a related subject. Some may think

it is not related but I think it is. It is related to a government—or an economic shutdown, if you will, on many businesses throughout the country, that is already occurring. This is something we hear about from time to time from various industries or businesses or occupations—almost everybody up and down Main Street. I would describe it as a shutdown by regulation or almost strangulation by regulation. That is what I wish to talk about for a moment.

I come to the floor to highlight another area where regulation is having a negative effect on business in my State and all across the country. To date, I have spoken about the impact of regulations on health care and on agriculture and on energy. Today I am here to talk about the regulation of our financial sector. I want to emphasize I am talking about the impact of regulation on our community banks, those banks in each of our towns, often home owned and operated.

Our community banks share the common concern I have heard from businesses in all industries all across my State. The volume and pace of regulations that are coming out of Washington are unmanageable and they add to the costs and divert resources that would otherwise be used to grow their businesses or serve their customers or help the economy in its recovery.

As I have noted in previous remarks, I was very encouraged that President Obama signed an Executive order. I credit him for that. He directed the administration to review, to modify, to streamline, expand, or repeal those significant regulatory actions that he called duplicative and unnecessary, overly burdensome, or that which would have had significant impact on Americans. He even, in an offhand remark, said some of these regulations are actually stupid. I agree with the President and I gave him credit for that.

I was originally encouraged by the President's commitment to a new regulatory strategy. But after reviewing the Executive order I was left with some concerns. Here is why. The Executive order states:

In applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.

Nobody could possibly disagree with that. It is a good statement.

Where appropriate and permitted by law, each agency may consider (and discuss qualitatively)—

I am not sure if I understand that in very clear language, but at least I have been trying to figure that out, along with a lot of the people who are on the receiving end of regulations. Then this is the part which I defy anybody to comprehend. "values that are difficult or impossible to quantify, including equity, human dignity, fairness and distributive impacts."

As the Wall Street Journal captured in their response to the President's editorial, "these amorphous concepts are

not measurable at all." How on Earth do you make such a determination? This language is, in fact, if anybody could understand it, a very large loophole. Coupled with an exception for the independent agencies such as the FDIC and the EPA, and the subagencies and other regulatory agencies, it has the potential to result in no changes at all.

Here you have an Executive order but you also have an Executive order that has a lot of loopholes in it. That is why I have introduced legislation to put teeth into this Executive order. My bill is called the Regulatory Responsibility For Our Economy Act, and it strengthens and codifies the President's order. Like the Executive order, my legislation ensures that the regulators review, modify, streamline, expand, or repeal the regulatory actions that are duplicative, unnecessary, overly burdensome, or would have significant impact on Americans. But it requires that Federal regulations put forth do consider the economic burden on American businesses, ensure stakeholder input during the regulatory process, and promote innovation.

Today, 46 Members of this body have signed on as cosponsors. That is a testament to the concerns that my colleagues are hearing from their constituents about how the unrelenting tide of regulations now coming from Washington is harming their businesses and our economy. It could be described, actually, as another government shutdown, as I have indicated, by strangulation.

Today I want to call attention to the impact of regulations on the financial services sector, in particular the impact on our community banks. I might add, in discussing this before on agriculture, energy, and health care, we talked to the stakeholders involved in Kansas, the people who are actually involved. It is their suggestions I am repeating and that I have tried to encompass in my legislation.

The financial services sector of our economy is already the focus of substantial regulation. I think everybody understands that. We all support commonsense financial regulations. However, it is important that financial regulations do not become undue burdens, especially on our community banks that are the backbone of Main Street and finance the economic growth in our communities. While I appreciate that many of the agencies with responsibility for regulating the industry are independent of the executive branch, I am hopeful that these agencies are receptive to the President's effort.

While the economic crisis focused attention on the financial services industry leading to the passage of the Dodd-Frank bill, our Nation's community banks that are already shouldering an undue regulatory burden will now bear a greater burden when the hundreds of regulations from this law are implemented. Our Nation's community banks are often small businesses. On average a community bank has 37 em-

ployees and approximately \$154 million in loans and other assets. The majority of banks in Kansas have an average of fewer than 14 employees. However, they currently comply with 1,700 pages of consumer regulations alone. That is incredible. They must also comply with hundreds of additional pages of regulations regarding lending practices and other banking operations.

According to a summary of the Dodd-Frank act by Davis Polk, this legislation mandates that 11 different agencies now create at least 243 more regulations; issue 67 one-time reports or studies and 22 new periodic reports. Many of these new rules are required to be issued in the next year or two, and financial regulatory agencies have the discretion to issue additional rules on top of those and those required under Dodd-Frank.

This is incredible if not unbelievable. Regulators have already issued more than 1,400 pages of regulatory proposals. Up to 5,000 pages of regulations are expected.

Many will be proposed by a new bureaucracy that is created in the Dodd-Frank act, the Bureau of Consumer Financial Protection. Remember that name. The acronym is CFPB, and it will undoubtedly suffocate a lot of businesses. It will have broad authority to monitor, regulate, and direct the activity of banks. These actions will create additional and significant compliance costs that will impact the ability of every bank to serve its community. These actions have real costs to banks.

According to recent testimony before the House Oversight and Investigation Subcommittee, the CBO Director—the Congressional Budget Office Director—Douglas Elmendorf, said the Dodd-Frank act is expected to impose nearly \$27 billion in new private sector fees, assessments, and premiums. This amount includes more than \$14 billion in new fees on banks. Guess where that money is going to end up in regards to consumer costs. Our community bankers and their customers are worried about the impact of these new requirements. That has to be the understatement of my remarks. They are frustrated, they are angry, they are upset.

Now, while not every regulation will apply to the community banks, they tell me the rapid pace and volume of new regulations being put forth are placing a strain on many banks' compliance capabilities and are adding significantly to their operating costs. Many banks tell me they are reevaluating whether they can afford to offer some products and services such as mortgage lending. Yes, you have that right. If you live in a small community, and you go to your local bank and you would like to get a loan in regards to financing a mortgage, sorry, they may be out of the business.

It is important to understand that banks do not oppose commonsense regulations. They are necessary to ensure that banks are doing their jobs and that consumers receive the proper in-

formation and disclosures that are beneficial to them. The problem is that unlike bigger financial institutions, our community banks do not have a large staff of attorneys or compliance officers to help them navigate wave after wave of these new regulations.

By one estimate, for the typical small bank, more than one out of every four dollars—one out of four—of operating expenses is used to pay for the cost of complying with government regulations. With Dodd-Frank we can only expect that cost to go higher.

One community banker tells me they have five compliance officers out of a staff of less than 100 employees. In speaking with compliance officers, they tell me regulations that are being put forth to implement a range of new requirements are being written too quickly, without sufficient specifics and guidance for banks to implement as intended.

They point to regulations that are duplicative or contradictory but which they must comply with, even if the banker or consumer does not view the regulation as having any value or benefit to the consumer—I might add, even if they can understand it.

Such compliance efforts cost time and money and it is vital that Federal regulators consider the total impact of all regulations, not merely each regulation in isolation, and work to reduce unnecessary regulatory burdens on an already heavily regulated industry.

With these concerns in mind, I would like to call attention to several regulations that highlight the impact of an overly burdensome regulatory environment. I encourage regulators to join the President's effort to pursue solutions to regulations that make it difficult for our community banks to serve their customers, support businesses in their communities, and help grow our economy.

The Dodd-Frank act requires the Federal Reserve to issue a rule for debit interchange fees. Basically, interchange fees are swipe fees that a merchant bank pays to a customer's bank when the customer uses their debit card. In December I joined a bipartisan group of Senators in writing to Federal Reserve Board Chairman Ben Bernanke expressing our concerns with the interchange provision and to encourage the Federal Reserve to ensure that our consumer interests are protected in rate standards that are set.

Our letter outlines "concerns with the consequences of replacing a market-based system for debit card acceptance with a government-controlled system," as well as concerns that the provision will make small banks and credit union debit cards more expensive for merchants to accept than those cards issued by larger banks, and it would likely put them at a disadvantage compared to the large banks that issue those other cards.

In addition, the rule does not consider all of the costs incurred by a bank in actually providing the service,

such as all the costs for fraud control and prevention, network processing fees, card production, and issuance costs, and fixed costs, including capital investments. These are all significant costs for many banks and will be one of the factors they will have to look at when considering whether they even continue to offer any debit card service.

During debate on the debit interchange amendment, supporters presented it as a proconsumer provision, maintaining that the reduction in interchange fees would be passed on to the consumer. Yet there is nothing, nothing in this Dodd-Frank act that requires retailers to pass on any savings from debit interchange fees to their customers. On the contrary, the debit interchange rule will likely result in higher bank fees, a loss of reward programs, or banks may ultimately, as I have said, decide not to offer debit cards to their customers. Some steps are already being considered.

Higher fees or limited choices as a result of such government price controls does not benefit any consumer. That is why legislation I am supporting calls for the Federal Reserve and other Federal financial regulators to slow down and fully study this issue, carefully evaluate the 11,000 comments that were received on this proposed rule.

I am particularly concerned about the estimated costs of the debit interchange rule for our community banks, which is not insignificant. Supporters of the interchange rule say our community banks will not be impacted. Well, I beg to differ.

Consider what I am hearing from the community banks in my State of Kansas. One community banker in a town of just 1,000, whose bank began offering debit cards a few years ago, tells me the interchange proposal will cost his bank \$19,000 a year. Two other banks that serve multiple rural communities will see increased costs per year of more than \$46,000 and \$100,000, respectively. Other banks, including banks in my State, estimate the cost to be in the millions. Ultimately, the loss of income for banks will mean less capital available to lend to borrowers.

I also want to mention the concerns I am hearing about the patchwork of mortgage disclosure requirements. Taken together, existing regulations and anticipated regulations as a result of Dodd-Frank may well have the effect of making it more difficult and costly to provide mortgages to qualified borrowers, reduce lending capacity, and may push some lenders to simply stop offering mortgages.

One example is the SAFE Act. It creates a nationwide mortgaging licensing system and registry for mortgage loan originators. This registry is intended for use by regulators to identify mortgage brokers or lenders who seek to work in a State after being banned from working in a different State. That sounds all right. However, each mort-

gage loan originator will be required to register with a national registry, obtain a unique identification number, and submit fingerprints for the FBI to conduct a criminal background check.

So if you are in the business of trying to be a mortgage loan originator, you are going to get fingerprinted. Our community bankers tell me their cost to meet the new requirements is roughly \$1,000 to \$2,000 per loan officer. I know that might not seem like a lot of money to Washington regulators, but it is a tidy sum in rural America.

The cost of compliance will take time and money away from the business of lending and may ultimately be passed on to the consumer in the form of higher prices for a mortgage loan. That is what will happen.

Finally, I want to mention the recent guidance on the overdraft payment programs put forth by the FDIC. At some point most of us have had experience with overdraft programs, perhaps when we forgot to balance our checkbook. In the guidance, the FDIC stated:

The guidance focuses on automated overdraft programs and encourages banks to offer less costly alternatives if, for example, a borrower overdraws his or her account on more than six occasions where a fee is charged in a rolling 12-month period. Additionally, to avoid reputational and other risks, the FDIC expects institutions to institute appropriate daily limits on customer costs and ensure that transactions are not processed in a manner designed to maximize the cost to consumers.

So while banks offer overdraft protection programs now and take other steps to aid customers in avoiding overdrafts, many are concerned that this guidance put forth by the FDIC is overly prescriptive and goes further than amendments on overdrafts put forth by the Federal Reserve.

Further, banks note that the guidance seems to contradict the intent of the President's Executive order that requires agencies to propose or adopt regulations only upon a reasoned determination that its benefits justify its cost, recognizing that some benefits and costs are difficult to quantify. Banks are concerned that the FDIC guidance is based on outdated information and that the impact of the Federal Reserve's rules on overdraft programs should be reviewed before moving forward with additional guidance in this area.

So while the FDIC is not subject to the Executive order, I certainly hope they would adopt the spirit of the order. In addition, when a customer has a pattern of excessive use of automated overdraft programs, the FDIC states that "(banks) should contact their customers about a more appropriate and lower-cost alternative that better suits their needs."

I can remember a bank scandal back in the House of Representatives. If only that bank would have had this protection from the FDIC, none of that scandal would have ever happened.

The FDIC recently provided additional clarification on this guidance

that provides some flexibility about how banks reach out to customers and permits them to contact customers by mail as well as in person and by telephone. However, the requirement that banks contact customers who incur six overdrafts in a rolling 12-month period remains a broad overreach of the FDIC's authority, putting the burden on the banks rather than the customer who ultimately bears the responsibility for ensuring that they have sufficient funds in their account to cover their transactions.

In fact, one study shows that 77 percent of customers paid no overdraft fees in the previous 12 months. That same study also showed that for those 21 percent of customers who paid an overdraft fee, 69 percent say they were glad the payment was covered.

Another survey found that 94 percent of those surveyed said they would want a transaction to be covered by their banks even if it resulted in an overdraft fee. This guidance seems to be a clear example of where an agency is overreaching, with little evidence of the need for or effectiveness of such additional guidance.

In closing, I thank, again, Obama for taking the step in the right direction to review Federal regulations that place undue burdens on our Nation's economic growth and recovery. I hope financial regulators will join in this effort to examine rules and regulations that pose significant barriers to our small community banks and their ability to serve their customers and contribute to the growth of their communities.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. I ask unanimous consent to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. The minority time has only 1 minute 30 seconds at this point and then the majority time has 30 minutes.

The Senator from Tennessee may proceed.

#### THE BUDGET

Mr. ALEXANDER. Mr. President, if another Senator wishes to speak, I will be succinct. I will try to do mine in a less period of time. I thank the Chair for its courtesy.

I wish to speak on two subjects. First, there has been a good deal of discussion in Washington about making sure we continue to operate the government over the weekend and on into next week while we get about the important business of reducing our debt. Our national debt is an urgent problem. Members on both sides of the aisle understand this, and have said this.