

to be a general intended deceit of the American people. I hope that is not the case and I certainly will take back those words if it is not. But actions are occurring behind the scenes as I speak that suggest I am not inaccurate.

What am I talking about? This past week the Senate was consumed in debating a bill about healthy forests and trying to develop some degree of active management on our public forest lands to reduce the overall fuel load that was and has been feeding the fires on our forested lands. Of course, last week, while we were debating here on the floor, America's attention was riveted in California where people were dying, homes were burning, and tens of thousands, hundreds of thousands of acres were being consumed. Probably that was the worst wildfire this country has seen in several decades.

What happened last Thursday after a very full and robust debate on a bipartisan bill that had been crafted in the Agriculture Committee and then re-crafted between the Senator from California, a Democrat, the Senator from Oregon, a Democrat, myself, a Republican, and a variety of others to build a bipartisan alternative approach to this problem? We debated that bill and we passed it by a vote of 80 to 14. That would demonstrate to the American people that those who opposed us in the past somehow had gotten the message. Somehow there was an awakening here in the Senate that there was truly a need to resolve the issue of forest health.

The poster I have just put up was used last week. It says: "California Burns, Democrat Filibuster Continues."

That filibuster was broken. There was a rousing debate and an 80-to-14 vote. The Healthy Forests initiative passed, an initiative I had worked on for a good number of years as chairman of the Forestry Subcommittee. The President of the United States, standing in ashes in the forests of California or Oregon the summer before last, declared this country had to get busy at being better stewards of their public lands or we were going to continue to see catastrophic wildfires.

All of that finally came together last week. Now, on the morning news, we see a caravan of mourning firefighters as they lay to rest one of the firefighters who was killed in those cataclysmic fires of last week in southern California. While there are those laying to rest over 20 people killed in those fires, and while the Senate last Thursday, on an 80-to-14 vote, passed out a Healthy Forests initiative, now, quietly, behind the scene, the Democrat leaders are saying: No more. We will not allow the bill to move any further. We will not allow the bill that passed by a bipartisan vote to go to conference with the House to work out our differences, to actually make it law.

Do you understand what I am saying? I am saying the debate last week and

the cataclysmic fires in California somehow have not changed anybody's mind; they have not changed or are not going to allow public policy to change; that behind the scenes there is now a silent, invisible filibuster on the part of Democratic leadership that will not allow this bipartisan bill to go to conference because, if it doesn't go to conference and the House and the Senate can't work out their differences, it will not become law. If it is not law, we cannot begin to deal with the 20 million acres of urban/wildland interface that are addressed within this legislation so that we will thin and clean and make them less susceptible to fire.

What is the picture here? Am I getting this wrong? Is this scenario I have on this picture now replaying itself? The fires are out in California, or at least we hope they are nearly out. But they will come again. Here is the reason they will come again. Here is a map of the United States. All these red areas—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRAIG. I ask for 1 additional minute.

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

Mr. CRAIG. The red on this map demonstrates not 20 million acres but 90 million acres of class 3 lands that are dead and dying and phenomenally susceptible to fire. See right down here in southern California where the fires burn, that red land that was looked at in 2000, which we said was going to burn? It burned: 3,400 homes, 20 lives, billions of dollars worth of assets. Now a silent filibuster on the part of Democratic leadership says we will not allow the bill to go forward? I hope I am wrong. I was not wrong yesterday. I understand they are still blocking a unanimous consent request to appoint conferees so the House and the Senate can work out their differences, so we can get at the business of being the good stewards of our public lands the public wants us to be and somehow, some way, treat our lands and deny wildfire to other areas of the country.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, how much time remains?

The PRESIDING OFFICER. Three minutes.

Mr. McCONNELL. Madam President, the Senator from Idaho is entirely correct. What is going on here is a filibuster over naming of conferees. As a part of the normal legislative process, you send Members to a conference with the House to resolve the differences. In effect, a Healthy Forests bill is now being filibustered without the naming of conferees. The differences between the Senate and the House cannot be resolved. Unless conferees are named, the 80-to-14 vote we had here in the Senate just last week is meaningless, absolutely meaningless. No legislation to protect our forests, our people, our firefighters, and our homes can move

forward while the appointment of conferees is being filibustered.

While efforts to solve this critical legislation may seem illogical or even callous in the face of the disaster we have witnessed in California on the nightly news, mind you, what is simply unbelievable is that the legislation to prevent catastrophic fires such as these was filibustered just over a year ago. Last year when the risk of catastrophic forest fires was clear and immediate and action was needed, there was an effort to block even the consideration of amendments to the Interior appropriations bill that would have reduced the sort of hazardous fuels that have set ablaze southern California. We knew this was a problem last year. We knew it needed to be addressed. But time and time again we have been prevented from moving forward. That was then and this is now. Now that 22 lives have been lost, 800,000 acres have been burned, and 3,400 homes have been destroyed, you would expect Congress might have gotten the message to get the lead out and get the job done. But some in the Senate just do not get it.

As the Senator from Idaho pointed out, the American people have a right to basic safety and security, which this bill provides. After all we have seen, they have the right to ask: Why in the world is this bill being delayed by 1 second? We saw this bill move at lightning speed by a huge majority last week. Now it is stalled and likely to fail in this session of Congress.

How many acres must incinerate, how many homes must burn, and how many lives must be lost before we move forward on the Healthy Forests conference?

During the last year, 27 firefighters lost their lives fighting blazes such as those this bill intends to diminish. Would it be today that my friends in the Senate will move forward to appoint conferees and finally pass this much-needed legislation into law or will the Senate, like Nero, fiddle while the Nation burns?

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL CONSUMER CREDIT REPORTING SYSTEM IMPROVEMENT ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. 1753, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1753) to amend the Fair Credit Reporting Act in order to prevent identity theft, to improve the use of and consumer access to consumer reports, to enhance the accuracy of consumer reports, to limit the sharing of certain consumer information, to improve financial education and literacy, and for other purposes.

The PRESIDING OFFICER. The Senator from Nevada.

HEALTHY FORESTS

Mr. REID. Madam President, I see the chairman of the committee is here. I will speak for a minute while he is getting affairs in order to respond briefly to the Senator from Kentucky about the Healthy Forests initiative.

The statement has been made that hundreds of thousands of acres have burned in the last few years. But we have had millions of acres burned. We understand what it means to have wildfires. As a neighbor to California, Nevada sent 500 firefighters and dozens of pieces of equipment to help fight the fires in California. We in Nevada understand what fires are all about. I think most everyone in the country understands how devastating these fires have been. But for anyone to come to the floor and suggest we are fiddling while Rome burns, that is simply untrue.

Here is what we are concerned about. We have a situation where we have been eliminated from the conference process. Remember that the Senate is 49 to 51. It is not as if there is a huge majority. We have been eliminated from conferences. People are saying, Isn't it nice that the Medicare conference is allowing two Democrats in on the conference. But for any other Democrats to come, the conference is closed. For most conferences, we don't have anybody.

What we have suggested on this bill and on the CARE Act and a number of other matters is that we go ahead and send what has been passed in the Senate to the House. If the House doesn't like it, they can send it back with amendments. We have done that many times. This is not an unusual procedure. We need only look at what we did last night with the Fallen Patriots Tax Relief Act. That is how that happened. There was no big cry of concern about that.

We haven't had the opportunity to do complete research. H.R. 1584, the Clean Diamond Trade Act; H.R. 1298, AIDS Assistance Bill; H.R. 733, McLaughlin House National Historic Site Act; H.R. 13, Museum Library Services Act; H.R. 3146, TANF Extension; and H.R. 659, Mortgage Insurance Act—these are just a few of the pieces of legislation we have handled in this manner.

If the majority wants this act to pass—and I am sure they do—the best thing to do would be to take what has taken place here in the Senate and send it across the hall to the House. If there is something they do not like about it, send it back to us with an amendment. It happens all the time. It is not unusual. In fact, in years past that is how it was done. Conferences were not used as much as they are used now.

The way we have been treated with conferences, they are going to have a lot less because you can't have conferences where there is no conference. Basically, the majority meets in secret, and when they complete their se-

cret meetings, they bring the conference report and say take it or leave it. That is the wrong way to do things.

That is what this is all about. We want the Healthy Forests initiative to pass. We wanted it to pass yesterday—not tomorrow but yesterday. It is an important piece of legislation. That is indicated by the vote that came out of the Senate.

Therefore, take what we passed, send it to the House, and if they don't like it, they can send it back with amendments.

Mr. CRAIG. Madam President, will the Senator yield for a question?

Mr. REID. I am happy to yield to my friend from Idaho.

Mr. CRAIG. Is it not true what I said on the floor, that you are objecting to appointing conferees to the Healthy Forests initiative so it can go to conference between the House and Senate? Is that not true?

Mr. REID. Yes. It is absolutely true. That is the point I tried to make last night dealing with the CARE Act and today. I apologize; I was in a meeting with Senator DASCHLE and I was unable to listen to your speech. But the answer is absolutely yes. That is the point I was making.

Mr. CRAIG. The point is the bill is not moving because your side is objecting to what is a normal process here in the conference.

Mr. REID. No. I say to my friend the bill is not moving because the majority has decided to harp on the fact that there is not a conference named—

Mr. CRAIG. I guess my point is made.

Mr. REID. Please. I have the floor. The fact of the matter is conferences have been held around here. What I am saying is the majority has a choice. If they want the healthy initiative bill—which we badly want—then I think what we should do is take what has been passed and send it to the House. If they don't like it, let them bring it back with amendments.

There are two ways of doing it. One way is the way the Senator from Idaho suggests. The conferees could be appointed and take it over to the House, and we meet someplace else. That is the normal way.

Frankly, since we have lost control of the majority, we haven't held conferences. I have talked about that at some length on previous occasions. I touched on it briefly here today.

We want a bill passed.

The Senator from Idaho is absolutely right. The Democratic leader, in representing the Democratic caucus, has said let us not do a conference because it is meaningless, anyway. Let us take our bill we have passed and work on it. We had a big vote here. Send it to the House, and they can come within a matter of hours with something they don't like about it, and we will be happy to review that when it comes back in a matter of hours.

Mr. CRAIG. I thank the Senator.

Mr. REID. I want to tell my friend from Alabama how much I appreciate

his patience while we finished this little scrum on the floor today.

I look forward to this most important piece of legislation. This is brought to the floor on a bipartisan basis. We have spent time speaking with the Senator from Alabama at some length in getting the bill here, dealing with the same problem we are having in the conferences.

I wish that all Senators had the sense of what legislation is all about as does the Senator from Alabama. He, in my mind, is truly a legislator. I have enjoyed working with him in the House and in the Senate. There is no question that this bill is here as a result of his reaching out to the Democrats on the committee. They have told me that. There are Democratic amendments in the mark now before the Senate. On behalf of those in the minority, through the Chair, we express our appreciation to the Senator from Alabama, the chairman of the Banking Committee.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Alabama.

AMENDMENT NO. 2053

Mr. SHELBY. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 2053.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SHELBY. It is our intention to adopt the substitute and ask it be treated as original text but we will wait for the other side before we adopt the amendment.

Mr. President, I am pleased to bring before the Senate S. 1753, the National Consumer Credit System Improvement Act of 2003. This bill was unanimously approved by the Senate Banking Committee on September 23 of this year by a voice vote.

The Fair Credit Reporting Act, is a very important, highly complex law that governs crucial aspects of the consumer credit system. This national system is huge—involving trillions of dollars and millions of people, and is at the heart of the economic well being of this country. The bipartisan bill before the Senate is the product of extensive hearings and deliberations by the Senate Banking Committee. Over the course of the past 5 months, the Banking Committee held six hearings related to the reauthorization of the seven expiring FCRA national standards as well as the effectiveness and efficacy of the FCRA as a whole.

The committee's process helped us identify key areas that required reform or improvement, while at the same time, reinforcing the importance of our national credit reporting system to the operation of our financial markets and economy as a whole. The committee bill incorporates many important reforms while creating permanent national standards. This bill reflects a

careful balance between ensuring the efficient operation of our markets and protecting the rights of consumers.

Over the 6 years since the FCRA was last amended, significant changes have occurred in our credit markets. There are now participants, new technologies, new underwriting practices, and new products. Indeed, there is more that has changed than has remained the same in the operation of the credit markets since the last time Congress considered the FCRA. These changes have been largely positive. They have expanded access to credit to more Americans and permitted loan approvals in hours rather than weeks.

However, these new developments have had some unintended consequences.

Identity theft. As our economy has grown more automated, more electronic transactions occur without the lender and borrower ever meeting face to face. As a result, the transfer of information has become much more pervasive, and a new crime has emerged that takes advantage of this flow of information. This crime is called identity theft, and the incidence of this crime has grown geometrically in recent years.

Identity theft involves a person using someone else's personal information without their knowledge to commit fraud or theft. Practically speaking, the crime involves misappropriation of such personal information as a victim's name, date of birth, and social security number. Identity thieves then use this information to open new credit card accounts, to divert current accounts from victims to themselves, and to open bank accounts in victims' names, among other things. The bad charges and the hot checks usually happen while the victims, banks, credit card companies and other firms are unaware that something is amiss.

In the wake of unauthorized activity and skipped payments, the creditor usually takes action and ultimately cuts the thief off. At this point, the creditor's losses are curtailed, but the nightmare is just beginning for the ultimate victim of identity theft—the individual whose identity the thief assumed. In most instances, the victims first become aware of the fact that they have been targeted when the creditor seeks payment. It is also when they begin to experience the negative consequences—dealing with law enforcement and the collection agencies.

Thereafter, when the results of the criminals' handiwork shows up on their credit reports, they face the considerable task of restoring their good name and credit rating.

This bill attempts to combat this growing crime while also helping consumers restore their credit standing and give victims assistance. The bill contains a number of provisions that deal with identity theft:

S. 1753 directs Federal banking regulators, the National Credit Union Administration and the Federal Trade

Commission to develop guidelines and regulations to identify and prevent identity theft;

The bill mandates the inclusion of fraud alerts in credit files, to notify users of credit reports that a consumer could be a victim of identity theft;

The bill will restrict the amount of information available to identity thieves, by requiring the truncation of credit and debit card account numbers on electronically printed receipts; and

S. 1753 increases the punishment of identity theft crimes.

S. 1753 also provides victims of identity theft with meaningful assistance something they do not really have today:

The bill requires the FTC to prepare a summary of rights of identity theft victims;

S. 1753 establishes procedures to block the reporting of and the furnishing of identity theft-related activities; and it requires the national credit reporting agencies to coordinate and share identity theft complaints.

Another aspect of this bill is accuracy. The committee also focused its attention on how best to ensure the accuracy of credit information. Accurate credit reports are absolutely crucial to the efficient operation of our credit market. Indeed, the changing nature of our credit markets has made accuracy more important than ever. Credit report information is increasingly used as the key determinant of the cost of credit and insurance in this country.

In addition, technology has permitted lenders to use credit information to more precisely assess risks posed by borrowers. Gone are the days when lenders merely stamped loans as "approved" or "not approved." Today, the lenders employing credit history data, use mathematical models to analyze credit risk and create risk-based prices for credit cards, mortgages and other products. Use of risk-based pricing allows lenders to extend credit to a broader range of borrowers on credit terms, which match the credit risk they pose. Additionally, its use results in very few credit applicants being rejected. Again this is a very positive development, but not one without a cost.

Currently, credit applicants who are rejected received adverse action notices and access to a free credit reports. This allows such consumers to review the accuracy of their credit report information. Due to risk-based pricing, consumers are often not given the adverse action notice when information contained in their credit report significantly impacts the cost of the credit offer. Rather, they receive a counteroffer with credit offered at a higher price or with more restricted terms.

This development presents a huge concern. The adverse action notice is the primary tool in the FCRA to ensure mistakes in credit reports are discovered. To address this situation, the committee bill requires regulators to promulgate rules to provide consumers

notice when, because of information contained in a consumer's credit report, the creditor makes a counter offer to the consumer on terms that are materially less favorable than the most favorable terms available to a substantial portion of consumers.

These notices will make consumers aware of the need to check their reports to ensure their accuracy. The need for ensuring the greatest possible accuracy in credit information does not end with these new notices. For example, in large credit transactions, such as mortgages, rate differences, as the Presiding Officer knows, can translate into hundreds of thousands of dollars over the course of a loan. Even in smaller dollar credit transactions, such as credit cards, rate differences can mean large amounts of money.

With the practice of credit card companies reviewing credit reports and adjusting rates in real time becoming more prevalent, the application of risk-based pricing to consumer finances is practically an everyday event.

Credit reporting information is increasingly used as the key determinant of the cost of credit or insurance. With the rewards for good credit so meaningful in this country, and the penalties for bad credit so costly, it is more critical than ever before that credit reports accurately portray consumers' credit histories.

The committee bill addresses this in several ways. One, the bill provides consumers the right to obtain a free copy of their credit report annually through a centralized system and request of their credit scores or information about credit scores in certain circumstances. This is a big change.

S. 1753 directs the Federal banking regulators, the National Credit Union Administration, and the Federal Trade Commission to develop guidelines to ensure greater accuracy and completeness of information in credit reports.

Furthermore, it directs the Federal Trade Commission and the Federal Reserve to conduct ongoing studies on the accuracy of consumer reports and the resolution of consumer complaints.

Privacy protections are addressed in this bill. S. 1753, the bill before us, contains a number of important new privacy protections for consumers. The committee-designed protections are based on our extensive deliberations and focus on core areas of concern in the privacy arena; namely, direct marketing and medical information.

The bill contains important new medical information protections which significantly limit creditors' use of consumer medical information and restrict the dissemination of medical information in credit reports. These provisions require the coding of medical information that is included in credit reports and prohibits creditors from obtaining or using medical information in determining a consumer's eligibility for credit.

S. 1753 also requires affiliated companies to give consumers notice and an

opportunity to opt out of direct marketing. In addition, the bill requires the regulators to study information-sharing practices of affiliated companies and the level of consumer understanding.

Financial literacy was another topic of our committee deliberations. The committee understands that informed, knowledgeable consumers are best positioned to take advantage of new credit products and to reduce the likelihood of falling prey to negative developments, such as identity theft. Financial education is crucial to the effective operation of our credit markets since the Fair Credit Reporting Act places significant responsibility on the consumer to ensure the accuracy of their credit reports. For these reasons, the bill establishes the Financial Literacy and Education Commission to review and create Federal programs and coordinate the existing financial literacy efforts already established.

The committee has devoted a significant amount of time and energy in this bill to build a complete and thorough record on the highly complex issues involved with the Fair Credit Reporting Act. The legislation we are considering today, which was passed unanimously out of the Banking Committee, reflects the time and consensus achieved during that process.

It contains language that was developed by a number of my colleagues on both sides of the aisle, and I thank all of them for their efforts. I also particularly thank the ranking member and former chairman, Senator SARBANES, for his insight and the significant contributions he and his staff have added as we have moved through this process over the course of the year.

I believe we have achieved the difficult objective of striking the proper balance between enhancing the rights of consumers and improving the efficient operation of our credit markets.

Mr. President, I now yield the floor to my distinguished colleague from Maryland, the ranking Democrat.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I am pleased to join this morning in bringing to the floor of the Senate, along with my able colleague from Alabama, the distinguished chairman of the Senate Banking, Housing, and Urban Affairs Committee, S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003.

This legislation is important to millions of Americans as we work to ensure fair, accurate, and effective credit reporting practices, and this legislation is designed to accomplish that objective.

First, I acknowledge and actually commend the distinguished chairman for the comprehensive series of six hearings on this legislation that were held in the Banking Committee. Chairman SHELBY structured extremely productive hearings. There was a systematic approach to examining all aspects

of this issue, and we heard from a broad range of interests in the witnesses who came before the committee. I think it is fair to say we covered all the bases.

Not all the bases got what they wanted. It never quite works that way when you do legislation. But I think we had a very open, transparent process, with people having an opportunity to present their positions. They were very carefully and thoughtfully considered. In the end, the legislation was reported out of the committee, on a voice vote, unanimously on September 23. I think that vote reflects the response to the chairman's willingness to work with all members of the committee.

Now, it goes without saying, each of us, if we could write the bill by ourselves, would have somewhat different aspects to the bill. There are areas where I would have sought to do more with respect to some consumer issues. But I think we sought to craft a balanced package here. We understand the need for a national credit reporting system for Americans all across the country. It means an opportunity to carry out their economic transactions swiftly, efficiently, and effectively. At the same time, of course, you have to be very alert to ensuring there are protections so people cannot be abused or taken advantage of in the process.

One of the things this legislation does—and I am going to refer to it in some detail very shortly—is it really seeks to address this issue of identity theft which has provoked so much misery and grief for people who are hit by it. It is really the central focus of people's attention now when they consider problems they are having with consumer financial matters. This legislation has some very significant provisions in that regard, and we were able to move those forward with the strong support of the members of the committee.

The Fair Credit Reporting Act, which this legislation, of course, affects provides for the ways in which credit information is gathered, disseminated, and used.

During the hearings, we received a number of recommendations for improving the operation of the act.

Among other things, the suggestions addressed: combating fraud and identity theft, protecting consumers' financial privacy, clarifying the credit scoring process and the use of credit scores, enhancing regulatory and enforcement authority, improving the accuracy of credit reports, improving consumers' understanding of the credit reporting process, combating abusive marketing practices, and finding ways to improve the financial literacy and education of all consumers.

I believe we have taken important steps to address all of these issues. The Senate bill includes a number of provisions that will result in enhanced consumer protections by helping to ensure accuracy of credit report information and fair practices in the collection and

use of credit information and in the granting of credit.

Among other things this legislation will: provide consumers with free credit reports annually from the national credit bureaus and provide consumers with an easy method to obtain their free credit reports. This has heretofore not been available. It will require a summary of consumers' rights to opt out of prescreened offers; provide for accuracy guidelines; lengthen the statute of limitations for all FCRA violations; enhance identity theft penalties; extend the situations in which adverse action notices are provided to consumers; prohibit the sale, transfer, or collection of identity theft debt, so that such bad debt will not be perpetuated in the credit system; provide consumers with the right to opt out of marketing that results from affiliate information sharing, with certain exceptions to that right. Finally, of course, it will help enhance the financial literacy of all Americans.

Let me discuss some of these items in a little more detail.

First, accuracy. I don't think it needs much elaboration for people to understand that accuracy of credit reporting information is integral to our reporting process. Erroneous information on credit reports can often take a significant investment of time and money to remove. They can be extremely costly to consumers by significantly raising borrowing costs. Insurers, mortgage banks, and other financial institutions rely significantly on credit scores to make credit decisions. Therefore, inaccuracies in the underlying credit reports can make it more difficult and more expensive for Americans seeking to make major purchases. Yet we heard testimony in those extensive hearings, to which I referred earlier, that credit report inaccuracies is one of the major problems that plague consumers. This legislation addresses that with substantial measures in that regard.

In order to enhance the accuracy of credit reports, the bill directs the Federal banking agencies, the National Credit Union Association, and the Federal Trade Commission to issue guidelines and promulgate regulations with respect to the accuracy and completeness of credit report information.

Second, free credit reports. The bill allows consumers to receive a free credit report annually from each of the three national credit reporting agencies. The bill also requires the FTC to take steps to make it easier for consumers to obtain their free report, including: setting out rules requiring that a centralized, streamlined method be established so consumers can easily obtain free reports, and actively publicizing and conspicuously posting on its Web site—the FTC Web site—the rights available to consumers under the FCRA, including the consumer's right to a free report.

The provision of free credit reports is a significant step in helping consumers

to ensure the accuracy of their credit report information, and helping them identify possible instances of identity theft.

As to prescreening, under the FCRA, credit reporting agencies may generate for creditors prescreened lists of individuals with certain credit characteristics to be targeted to receive a direct mailing. This prescreening process results in much of the unsolicited mail credit offers that consumers receive and about which they often complain.

The success of the FTC's Do Not Call Registry has highlighted the frustration of Americans with unsolicited telephone offers. Under the Senate bill, creditors making such unsolicited offers of credit to consumers by mail will be required to include a summary of the consumers' rights to opt out of prescreening in their offers to consumers. In addition, this Senate bill increases the effective period of the telephone opt-out of prescreening from 2 to 7 years.

With regard to adverse action notices, under the current law, the FCRA, a consumer receives an adverse action notice after denial or cancellation of insurance, a denial of credit, or a denial of employment, based on information in the consumer's credit report. This adverse action notice then triggers a consumer's right to a free credit report and other of CRA disclosures.

Those are the provisions that have heretofore been in the law. What has happened, of course, is that, as the industry has grown more sophisticated in the technology, we are having a move to risk-based pricing. So there are many circumstances in which a consumer may apply for credit, but rather than receiving an outright denial, which is what happened in earlier days, which then was an adverse action and gave the consumer certain rights, the consumer may receive credit at an elevated rate or cost because of information on the consumer's credit report. In these situations, because a consumer has received credit, albeit at more rigorous terms, the consumer is not considered to have experienced an adverse action. Therefore, no FCRA rights are triggered.

This legislation now before us incorporates a recommendation made to us by the Federal Trade Commission to update the provision of adverse action notices so consumers are aware that information in their credit report is negatively affecting the rates they are paying for credit. Therefore, because they become aware of it, it gives them an opportunity to examine that information and to correct it if, in fact, it should be inaccurate.

Finally, in addition, the Senate bill takes important steps to improve the financial literacy of consumers by establishing a financial literacy and education commission within the Federal Government, which will coordinate the promotion of Federal financial literacy efforts, and will develop a national strategy to promote financial literacy and education.

I commend Senators ENZI and STABENOW, along with Senators CORZINE and AKAKA, and many others, for their leadership in this important area of financial literacy. Senator ENZI and Senator STABENOW and Senator CORZINE and Senator AKAKA, for a long time—really, since I have known them—have been interested in this issue. We are pleased there is a title in the bill that carries forward important efforts in this regard.

Let me turn to identity theft. I indicated at the outset that this was an issue of increasing concern across the country. Before I do that, I will simply mention a step that we took in this legislation with respect to affiliate sharing. This legislation contains provisions relating to the ability of financial companies to market to their customers based on private financial information of the customer that has been shared among affiliates.

The bill would require affiliates who share customer information for solicitation or marketing purposes—and most of the concern we have heard in this area has been with the use of this information for solicitation or marketing purposes—to disclose such sharing to consumers and to provide them with an opportunity to opt out of the marketing resulting from such sharing of information.

There are exceptions in the legislation with respect to this provision for preexisting customers, for service providers, and for the institutions responding to a consumer request. So on the solicitation for marketing, we are trying to address much of the concern that has been expressed to us, but we have been trying to do it in a very careful way so that the basic purposes of the legislation can be carried forward.

I want to spend just a few moments on identity theft because it is such an important issue now. We heard some absolute horror stories before the committee from witnesses who had experienced identity theft and what it has done to their lives—virtually destroyed their lives. Obviously, we have to deal in every way that is reasonably possible with this issue. It has become an increasing problem in recent years.

The Federal Trade Commission reported that the number of identity theft complaints it received last year far exceeded complaints about any other type of consumer fraud. Americans have serious concerns about this issue. Businesses incur significant costs dealing with identity theft. Honest citizens who are victims of identity theft incur very high costs in money, in time, in anxiety, and in an effort to correct and restore their spoiled credit histories and good names. Someone steals their identity and then uses it, and their whole credit record is being destroyed. Then it is almost impossible for them to function in a normal economic way in our society.

This bill contains a number of important provisions that will address iden-

tity theft, and I commend not only the chairman but the members of the committee—all of the members of the committee—who were prepared to focus on this issue and give it a very high priority as we sought to move this legislation forward.

The bill will allow consumers to place fraud alerts on their consumer reports. It will allow military personnel to place alerts on their reports indicating their active duty status. So there is a special concern for our men and women in the military.

The bill provides for free credit reports after a fraud alert. Consumers will be able to get two free credit reports in the year after a fraud alert is placed in their file, as they seek to clean up the situation and to remedy it.

As to account blocking, the bill will allow identity theft victims to direct consumer reporting agencies to stop furnishing information regarding the accounts associated with identity theft.

“One call” policy: The bill will require that the national credit reporting agencies that receive consumer calls about identity theft direct the complaint to the other national agencies so that identity theft victims need not contact each agency separately. They can make one contact, and then the information is disseminated on identity theft.

With regard to notification of fraudulent information, the bill will require debt collectors who learn that information in a consumer report is fraudulent, maybe the result of identity theft, to notify the creditor of the fraudulent information.

On truncation of account numbers, the bill will require that businesses truncate credit or debit card numbers on electronic receipts.

And on prohibition of the sale of identity theft, the bill protects consumers by prohibiting the sale, transfer, or collection of a debt where a consumer is an identity theft victim with respect to that debt. This will help to prevent identity theft debt from being perpetuated within the credit system.

I want particularly to note the leadership of Senator CANTWELL with respect to identity theft. Her identity theft legislation actually passed on the floor of the Senate last year, and this bill incorporates many of the provisions that were in her legislation, including an extension of the statute of limitations and the blocking provisions. I know she has worked closely with Senator ENZI in that regard in trying to address this identity theft issue.

I also want to acknowledge the work that Senator FEINSTEIN has also done on the identity theft question. We are most appreciative of her efforts in this regard as well.

This is just a summary of a number of the provisions of this legislation

which I think extends important protections to consumers. The bill provides a number of important improvements in the credit reporting system.

As I mentioned earlier, this legislation was voted out of the committee on a voice vote. There are certain provisions of the existing legislation that will expire on January 1, 2004. Therefore, it is important this legislation be enacted before the end of this session.

I close by again thanking the chairman for the very fair and balanced way in which the hearings were conducted and in which the markup took place. We sometimes put down or minimize the importance of process. It is not a very catchy word, "process," but a good deal of what we try to do here and when you try to make this democratic process work involves process. It involves how you go about considering issues and how open and fair you are in doing it; how the majority treats the minority and how the minority responds to the treatment it receives from the majority. I believe a good process contributes to good legislation, that it is an important part of formulating legislation and arriving at the building of a consensus to address important problems.

I simply want to say to my colleagues that I think the process that was followed in this instance was as it should have been, and I think the fact we bring this legislation to the floor out of the committee with a unanimous vote is, in part, a consequence of that process. I again thank and commend the chairman in that regard.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. DOLE. Mr. President, I am in strong support of S. 1753 to renew uniform national standards for managing consumer credit information. These provisions are due to expire January 1, and this legislation is vitally important so that economic empowerment can become a reality for all Americans.

Since it was first enacted in 1970, the Fair Credit Reporting Act has served an important role in this Nation. Indeed, it is astounding to consider the fundamental changes which have occurred in our credit system.

In 1970, credit card charges over \$20 required the store owner to call the creditor who would then have an employee go through a card catalog system to approve the transaction. Today, it takes just seconds, even when you are on the other side of the world. While we take this innovation for granted, it demonstrates how much our system of payments has changed.

In addition, the provisions of the Fair Credit Reporting Act have also been responsible for many of the advancements in how we choose financial products which best meet our needs. Today a fairer and faster system of assessing an individual's financial responsibility means that consumers now have quick access to competitive offers for credit, insurance, or other financial products.

Clearly, our current credit system has benefited individuals at every level of the economic ladder, and that has meant new opportunities for people who never before had access to credit. Judgments based on race and gender have been taken out of the equation of creditworthiness.

No longer is collateral necessary when qualifying for a loan. People can now move on to the ladder of economic success simply by proving they can responsibly handle their financial affairs. Given this opportunity to reauthorize the Fair Credit Reporting Act, we must ensure that our actions do not result in increases to the cost of credit or lower access to credit. Both would have harmful effects on our recovering economy. At the same time, we must ensure that the law applies to everyone fairly and that the system to protect consumers against questionable material on credit reports operates efficiently and effectively.

Recently, in the Banking Committee, we heard testimony about the harm caused to consumers who had false information on their credit reports as a result of mistakes or fraud. The legislation before us contains initiatives to increase the accuracy of credit reports, including providing consumers with one free credit report each year. This free report will give consumers a better understanding of the factors financial institutions take into account when pricing a product and when deciding whether to extend credit.

Free credit reports will also ensure the accuracy of reports since consumers are best able to identify incorrect and false information. This will go a long way in stopping identity theft, a destructive crime that is, unfortunately, growing more common each day.

This legislation also continues one of the most important provisions from the 1996 act, and that is affiliate sharing. Consumers clearly benefit when they are able to call a single person in their financial institution and that customer service agent is able to access each of their different accounts at once. We all know the frustration of being transferred from person to person when we are attempting to get questions answered. With these provisions, more institutions are able to develop systems to minimize the need to transfer customers from department to department. It also saves consumers time and money when financial institutions are able to realize greater efficiencies by consolidating customer service and administrative functions for their affiliate businesses.

Let me be clear. Privacy of personal information is extremely important, and I continue to work to implement reasonable protections. However, we must strive for a balance and we must not sacrifice the efficiency of our credit system in the name of privacy. In many ways, I believe our responsibility is like that of doctors in the Hippocratic oath: First do no harm.

Just as importantly, affiliate sharing assists financial institutions in their antiterrorism efforts by helping them detect and prevent money laundering. A customer service agent who can review all of the consumers' accounts is more likely to spot potential problems or concerns.

The average American moves every 6 years. This is about 17 percent of the U.S. population, more than two-thirds higher than any other country. Our national uniform credit system plays a significant role in increasing the mobility of labor and in the ability of consumers to move while keeping portable credit reputations that preserve their access to low-cost credit. Advances such as these have ripple effects that help our communities tremendously. The families served find themselves with more money since the costs of their financial needs decrease, they have access to credit and loans to meet the needs of their families, and they are able to establish a good credit record so that they are eligible to obtain a home mortgage.

Because of the Fair Credit Reporting Act, families are able to build wealth, many for the first time. They are able to provide greater stability for their families, and in turn they become more involved in their communities. It is the modern American dream so many consumers are beginning to realize because of our efficient and effective credit system. It is important that Congress act quickly to renew these uniform national standards for managing consumer credit information. Consumers and the financial sector will most definitely feel the impact if these provisions expire. The benefits to our communities and our economy are endless.

I certainly thank Chairman SHELBY for his excellent work on this legislation. His ability to resolve issues and work with all the parties is a true testament to his leadership. It is a privilege to serve on his committee.

I also thank Senator SARBANES for his tireless advocacy on behalf of consumers. Similar legislation has already passed overwhelmingly in the House. I urge all of my colleagues to join this truly bipartisan coalition of Senators in acknowledging the benefits the Fair Credit Reporting Act has brought to our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I thank the Senator from South Dakota for permitting me to do this. I ask unanimous consent that the substitute amendment be adopted and considered original text for the purposes of further amendment and that no points of order be waived by this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I thank the leadership for moving to floor consideration of S. 1753, which amends the Fair Credit Reporting Act.

This bill, which was approved unanimously by the Senate Banking Committee, will ensure that millions of Americans continue to have access to affordable credit under a uniform national standard that includes significant new consumer protections.

Similar legislation was passed out of the House of Representatives recently by an overwhelmingly bipartisan vote of 392 to 30. Only occasionally do we have the chance to vote for a bipartisan bill that so ably balances the needs of consumers and business.

Under the leadership of Chairman SHELBY and ranking member SARBANES, we have achieved a product that is good for everyone. In the area of consumer credit, we have a rare convergence of interests. What is good for consumers helps business to expand, which in turn helps to give consumers more choice. The end result is a stronger economy.

I urge my colleagues not to squander this opportunity to send a decisive message that we are committed to protecting and improving a pillar of this Nation's economy, and that is the consumer credit market.

It is a testament to the success of our national credit reporting system that few people have heard of the Fair Credit Reporting Act or FCRA. FCRA is the statute that governs the collection and use of personal credit data that make up an individual's credit report. That credit history, in turn, allows Americans to access the credit markets in whatever form meets their needs. For example, millions of Americans have refinanced their mortgages over the past year to take advantage of historically low interest rates. Others have applied for low-cost auto financing. Most Americans have some form of revolving credit line that helps them to meet certain payment needs.

Very rarely do we stop to ask ourselves why is it that we can walk into a bank, walk into a store or credit union, or apply over the phone or the Internet for credit with a mortgage broker and a few minutes later get approval. These people do not know us, they have never seen us, and yet they have the information they need to make an objective and sound credit-granting decision.

When I was growing up, if you needed a loan, you had to walk down the street to the local banker, who had probably known you your whole life. He lent you money because he knew your family, he knew you were a hard worker, and he trusted you to make a good loan. Or maybe because the banker had certain preconceived notions about you or your family, you did not get credit that you deserved.

Today, that has all changed. Today, the national marketplace for credit has transformed this loan-granting process. Uniform credit information allows lenders, big or small, to make sound lending decisions based on an objective evaluation of past credit performance. These objective indicators are critical

to the safety and soundness of our financial institutions.

Poor lending decisions affect all of us through institutional instability and an increased cost of credit.

The FCRA, which was passed in 1970 and amended in 1996, has created a national credit marketplace based on standardized information related to consumer credit histories for all of us, regardless from which state we come. That same statute has standardized consumer rights related to accuracy and access. And the reason we are here today on the floor of the Senate is to improve and to protect this system.

Unless Congress acts, important preemption provisions of the FCRA will expire on January 1, 2004. Under the pressure of that deadline, Banking Committee Chairman SHELBY and Ranking Member SARBANES have done an extraordinary job of creating an exhaustive hearing record on this law, and putting together a bill that both enhances the underlying statute and also permanently extends the preemption provisions to guarantee uniformity, to the benefit of consumers and businesses alike. When I introduced the first reauthorization bill, S. 660, back in March, I had no idea the process would move forward with such bipartisan spirit, with unanimous approval from the Senate Banking Committee, and a 392-30 vote out of the House. But these votes are testament to the critical importance: the urgency of this legislation.

The United States is unique in having what is known as "full file" credit reporting. Unlike in other countries, where only consumers with negative credit history have any kind of record, our system encourages data furnishers to report both negative and positive credit history—all on a voluntary basis. This information allows lenders to make informed decisions about a given consumer's credit risk, and to make better, safer, and more objective lending decisions.

This means that when you pay on time, this positive payment history gets reported to centralized credit bureaus. Of course, if you're late or you miss payments, that information goes into your file as well. But unlike the "no news is good news" system that exists in so many countries, our full-file reporting system means that consumers can build up a solid credit history through on-time and responsible payments, and that history will follow us wherever we go. So when the time comes to apply for a mortgage or other loan, a lender can see that you know how to handle your finances.

This full-file reporting system has led to another critical development in our credit markets, and that is risk-based pricing. Until fairly recently, credit granting was a binary business. In other words, either you qualified for credit or you didn't. Now, lenders can take a chance on a borrower by charging a higher interest rate to account for that risk instead of simply reject-

ing a loan application. This type of pricing has helped to fuel America's small businesses. It has also helped those with impaired credit histories or with little history at all to enter the mainstream credit markets, opening up new opportunities.

I would like to spend just a few minutes highlighting the magnitude of what's at stake today with some statistics.

A recent study of the consumer credit marketplace shows the growth of credit card access over the last 30 years, and the results are striking. In 1970, only 2 percent of families in the lowest income bracket had a credit card. In 2001, that number stood at 38 percent. In the highest bracket, the 33 percent of households that had at least one credit card in 1970 had risen to 95 percent.

Even more striking are the statistics related to access to credit by race. Between 1983 and 2001, the number of white families who held credit cards increased by 69 percent. During the same period, the number of Hispanic families increased by 85 percent, and the number of African-American families increased by 137 percent.

It is worth noting the significance of these figures extends far beyond simple borrowing power. Today, you can't rent a car without a credit card. You can't buy movie tickets over the phone without a credit card. And with only a few exceptions, you can't shop on the Internet without a credit card.

The results are just as noteworthy in the area of mortgage lending. Over the last three decades, white non-Hispanic families experienced a 20 percent increase in access to mortgage loans, while minority groups experienced a 65 percent increase over the same period. Those rates coincided, not surprisingly, with a parallel increase in homeownership rates. I think we all understand the important social and economic benefits of homeownership.

The study also notes the critical role that automated underwriting has played in democratizing our credit markets. Automated underwriting, which would be next-to-impossible without a uniform national credit standard, now accounts for over 90 percent of mortgage lending, up from 25 percent in 1996. According to this report, and this is an astonishing statistic:

Before the advent of automated underwriting, approving a loan application took close to three weeks; in 2002, over 75% of all loan applications received approval in two or three minutes.

Even more important, the automated underwriting systems greatly reduce racial and gender bias that in the past resulted in redlining, which unfairly prevented certain groups from owning homes, and which kept too many financial services companies out of markets inaccurately and unfairly deemed to be high risk.

This study also concludes that certain changes to FCRA, and in particular restrictions on the type of data

that might be reported about a consumer, would be especially harmful to consumers at the lower end of the credit spectrum. In particular, minority, lower-income and younger borrowers would be the hardest hit. This conclusion is critical, and gets to the heart of what a uniform national credit reporting system is about. The last thing we want is to reintroduce discrimination into the lending system, which would mean that minorities and low-income people would be forced to high-cost unregulated lenders for credit.

Failure to maintain a uniform national standard would also have a staggering impact on the cost of credit. Even credit cards, which often carry higher interest rates than other types of non-revolving lines, have seen significant decreases in cost, which the study attributes largely to the competition in the market and to prescreening, which is made possible on a large-scale basis by the FCRA. For example, in 1990, only 6 percent of all credit card balances paid interest rates under 16.5 percent. By 2002, 15 percent of all card balances paid rates below 5.5 percent, and 71 percent of all credit card balances carried interest rates under 16.5 percent. In 1990, while more than 93 percent of all credit card balances paid interest rates over 16.5 percent, that number had plummeted to 29 percent in 2002.

I note here that consumers who do wish to receive pre-screened offers have the right to opt out of the system. In fact, S. 1753 makes that opt-out even easier and long-lasting.

While some of these interest rate declines may be due to a general drop in interest rates, much absolutely has to do with companies' ability to differentiate risk among borrowers and to price credit accordingly. Credit scoring models have increased in their predictive power and one result is increasingly competitive cost of credit. Any reduction in the type of information available to lenders would significantly degrade the predictive power of most models.

The study further indicates an increasingly efficient marketplace, leaving aside the role of interest rates. One chart shows mortgage rates back in the early 1980s hovering around 3.5 percentage points above the 10-year Treasury bill. In the last few years, spreads have closed to about 2.5 percentage points. The national credit marketplace has increased competition, with all the positive effects we learned in Economics 101. One of the main reasons we have a competitive national marketplace is because we have a national credit reporting standard that permits consumers, no matter where they live, no matter where they move, to apply for credit and to receive an answer in a matter of minutes. America is the envy of the world in terms of immediate access to credit for all of our citizens.

There are ongoing attempts to mischaracterize the fundamental nature of the FCRA as a privacy statute.

And while there are certainly important privacy components to this statute, components which the Banking Committee bill strengthens significantly, the FCRA fundamentally is about the economy. And all too many of us know firsthand that the last thing our economy needs now is an attack on the consumer credit markets.

Under the able leadership of Senators SHELBY and SARBANES, the Banking Committee's bipartisan legislation takes groundbreaking new steps to give consumers greater control over their financial lives; fight the growing crime of identity theft; and promote much needed financial literacy and education efforts. Under the act, every American will be able to get one free credit report a year—a significant milestone. The public will also know that their private medical information will never be used inappropriately in making credit-granting decisions. And the act takes important new steps to empower consumers to reduce unwanted credit solicitations.

It is my understanding that some Members may be offering amendments that include wholesale replacement of significant portions of this carefully-crafted bill with a substitute proposal that has moved through a State legislature under a highly charged and political atmosphere. While I look forward to discussing these proposals, I am frankly very concerned that we not get into a situation where we are playing politics with access to credit. One of these amendments in particular is drafted in such a way that we would end up catching labor unions, churches, universities, charities, and a host of other groups in the FCRA net, a consequence that is clearly unacceptable.

As we move forward with this legislation to strengthen and protect our consumer credit markets, I would urge my Senate colleagues to look to the model of bipartisan lawmaking that has surrounded reauthorization of key provisions of the Fair Credit Reporting Act: a unanimous vote out of the Banking Committee and an overwhelming House vote of 392-30 on final passage. We owe it to our constituents to continue working together to secure final passage of this critical economic bill. I urge my colleagues to join me in supporting this legislation, which is so important to America's consumers and businesses alike.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the Fair Credit Reporting Act which we are debating on the floor today. I think it is important as we move through this debate and take up amendments to the legislation that we continue to ask the question, Why do we need this legislation in the first place? What are we trying to accomplish with the bill?

First and foremost, this is legislation that is intended to serve and protect the interests of consumers in the United States of America. In this legis-

lation we are providing consumers access to a national credit system. If we look at the financial services, or our commerce system across the entire country, it is our job to look out for the interests of consumers where interstate commerce and business is concerned, and this legislation does just that. It provides access to a national credit system, and it does so at a reasonable cost. We strike a balance between the needs of the consumers and the impact on our economy so that in the long run both consumers and America's economy are well served.

We work to ensure consistency and fairness in the legislation. Any bill we take up here which might affect consumers or any other interests in the country, we would want to work to ensure it is consistent, it is fair, and that it creates a level playing field wherever possible.

As indicated and described by Senator JOHNSON in his remarks, the existence of this national credit system has resulted in speedy approval for consumer decisions and requests and credit cards and other financing mechanisms. As a result, we have seen access to credit dramatically increase since 1970 when the first credit acts were signed into law.

That improvement in access to credit markets and credit opportunities has been most dramatic for those at the lowest end of the income ladder. That is something we should recognize as being good for all of those consumers but also for our country as well. The reason we are here is for those consumers.

If we look at the result of the work that was done beginning in 1970, the Credit Reporting Act in 1996, and now with this legislation to reauthorize that legislation, the results have been a more accurate system, a stronger economy as described in detail by a number of the previous speakers, and now with some of the new provisions we will also have greater protection from identity theft and a system that is adapted and modernized to meet the new technologies and the new opportunities that exist today.

Senator SARBANES described the details of the legislation. I will not go through all of the provisions that enable us to enjoy these very positive results, but I will reemphasize the fact that this is strong bipartisan legislation. Chairman SHELBY and ranking member SARBANES worked through six hearings in our committee to conduct exhaustive investigation as to the results of the legislation that has been enacted before, the new opportunities created by technology, and different opinions on different provisions. We have a very strong committee record. I am pleased to have participated in most of those hearings to ensure that we are taking the disparate views into consideration and improving the strong legislation that is already on the books.

We want to avoid having 50 States adopting 50 different standards in each

of the areas that have been discussed—whether it is enforcement, access for consumers to credit reports, information sharing, or whatever the issue. We don't want to have 50 different systems for each of these areas. That would be a more costly system for consumers. That would mean we would have a less accurate system. That would also mean—I think this is an important point—we would come back to this debate with a disparate patchwork, and it would also mean greater susceptibility to identity theft.

When we are looking at the issue of information sharing or opt-ins and opt-outs, some of the privacy issues that are very important, we have to be sure we at least give law enforcement the same level playing field criminals have in that we at least ensure law enforcement has the most consistent system possible to do its job in protecting against identity theft. A patchwork of laws and legislation would increase the risk of identity theft, not decrease it.

At the end of the day, this is a consumers' bill. That is exactly what we want it to be. We give consumers greater access to reports. We have all been frustrated with mistakes, or errors, or oversights in our own credit reports. We want to make sure consumers have that access. We give them the protection from identity theft. We improve the enforcement mechanism for those who commit crimes involving credit reporting or identity theft. We have very commonsense provisions for information sharing among affiliates that exist so they can make sure the information they are acting on is accurate and fair and adequately represents the consumers' interests in these.

Again, I give great credit to the staff of the committee and to the chairman and ranking member for the work they have done.

I look forward to this debate. I hope we can quickly conclude the work on this legislation so our national credit system can remain strong as it has been for decades, but also so it can be improved to respond to what is in a changing world.

Mr. BUNNING. Mr. President, I rise today in support of S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003.

As we all know, reauthorization of the Fair Credit Reporting Act is a very important issue for the financial services industry and for consumers.

When I talk to my friends in this sector, it is always the first thing they ask about. It touches everyone and their money and our national economy. It's critical that we act on it before adjournment.

I believe that the Banking Committee, under the leadership of Chairman SHELBY, has created a fair, bipartisan bill, and I urge my colleagues to support it.

We have been talking about this issue for several years. We have held a number of hearings on it. We looked it over pretty thoroughly, and I think we

have come up with a reasonable approach.

Most importantly, we have to act now because this bill is also important to our overall economy.

Last week, we had great economic news. Our economy is roaring back and that is good news for everyone. But if we fail to pass this bill, it could end up being a serious speed bump on the road to a better economy.

If there is one thing that markets hate, it is uncertainty. They want to know where we are and where we are going.

For better or worse, the markets think we are going to pass this bill.

They think we are going to outline a stable path for financial institutions when it comes to the sharing of information.

Any talk or any sign from Congress that makes the markets think that we are not going to pass this bill would create a great deal of uncertainty in the financial markets.

Now that our economy is really coming to life, that is the last thing we need.

If the markets think we are going to let the FCRA lapse, they are going to get very jittery very quickly. I can understand that. This is a sensitive, complicated area. I don't think any of us wants the FCRA to lapse.

We need Federal preemption in this area. I think it would be a mistake to let States and localities all try to impose their own privacy rules.

There are trillions of dollars at stake. We have to be very careful.

But if we fail to pass this bill, we open a Pandora's box of States and localities writing their own rules, and the markets and financial institutions just are not prepared for that.

We can't let that happen. We don't need that uncertainty now. Who knows what would happen.

On a personal note, I am very pleased that the bill contains strong identity theft and privacy protections, including my amendment on social security number truncation that will help prevent thieves who go "dumpster diving" or try to steal credit reports from mail boxes.

Identity theft is a growing problem in America. The internet is making it easier for thieves to access consumer information.

My amendment will help fight this growing menace. Under this bill, consumers can block out their social security number on their credit reports.

It's just the sort of simple, commonsense approach that will help consumers without burdening business.

I would also like to talk about the amendments that are going to be offered by my colleagues from California. They are based, in large part, on a California bill, SB1.

I am sure California has a fine legislature. And I am sure there representatives try their best to represent their California constituents. But I do not think the California Legislature rep-

resents the people of Kentucky or the other States very well. That's not their job.

If we adopt the amendments to be offered by my friends, it would have the effect of imposing California's rules on the rest of the Nation.

That's a bad idea that will only lead to the economic uncertainty we have to avoid.

If California wants to try to craft their own rules and work with Federal regulators, I say more power to them—but not if it puts a crimp on the national economy or starts rewriting the rules for the other 49 States.

Our credit system is a national system and it needs a national standard. Standards that may work in California or Kentucky may not work for the country as a whole.

Usually I am all for taking power away from Washington and sending it back to the States and local government. But on this bill, we cannot ignore the fact that credit rules and markets and money are all part of a broader, national economy that requires a unified, Federal approach. To let States undermine that would be a recipe for disaster.

S. 1739 is a fair and balanced bill that sets a fair and balanced standard for our entire Nation.

It's bipartisan, it's common sense, and it's a prudent solution to a pressing problem for our financial institutions.

I urge my colleagues to support this important legislation.

Mr. SCHUMER. I commend Senators SHELBY and SARBANES on a strong, bipartisan bill.

Reauthorizing the Fair Credit Reporting Act is vital to our national credit markets, to the broad credit access American consumers enjoy, and to the businesses that provide that credit. Indeed, it may be the most important piece of legislation that we enact in 2003.

Like all great pieces of legislation, this bill strikes a balance between those who would like to see more change and those who would like to see less. It is a true compromise between competing interests.

While preserving some of the structure of how businesses operate, it adds significant new consumer protections and disclosure rights—enhanced protection from identity theft, distribution of free credit reports annually, better notice when adverse actions are taken.

I want to speak for a minute about identity theft.

While our national credit system—and the digital age we now live in—has brought great benefits, it also has a dark underside: identity theft.

It is now so easy for credit histories to be accessed, that the security of some of our most private data is easily compromised. As a result, becoming a victim of identity theft is as easy as saying your ABCs.

So what is identity theft? It sounds like something out of an Isaac Asimov

science fiction novel but it is a very real crime that could affect all of us. Anyone who has ever applied for a credit card, a driver's license, a social security number, even a cell phone, could become a victim.

Last year, the Federal Trade Commission received twice as many complaints about identity theft as it did in 2001. And ID theft is projected to grow in the future. Some forecasts predict that by 2006, between 500,000 and 700,000 Americans will be victimized annually.

This issue is of particular concern to New York State. New York has the second highest number of cases of ID theft of any state in the country. And my hometown, New York City, has the unfortunate distinction of being the identity theft capital of the United States—it suffers more identity theft than any other city in the nation. New York businesses also suffer as the financial costs of identity theft nationwide often fall on the financial institutions based in New York. ID theft costs businesses millions of dollars each year because criminals use false pretenses to purchase goods, leaving businesses to foot the bill. Identity theft is a scourge on New York consumers and New York businesses. And it is high time we fixed this problem.

Victims of identity theft often spend hundreds if not thousands of dollars and years repairing their financial lives. But there is more at stake here than just money. By destroying a person's credit rating, identity theft jeopardizes an honest person's ability to get a credit card, receive approval for a loan, get a job, or even buy a house.

Identity theft doesn't just mean having to replace an ATM card, it means having to rebuild a life.

So I am glad we are addressing ID theft in a strong manner in this bill and commend my colleagues for their leadership on this issue.

I also want to speak about another critical part of the bill—improving consumer access to their credit scores, the principle factor in determining a person's credit worthiness and the loan terms they receive. For years, consumers have been kept in the dark about what their credit score is and how it is computed. At long last, this legislation lifts the veil of secrecy over credit scores and creates greater opportunity for securing a home mortgage at considerably less expense.

The legislation that Senator ALLARD and I worked on with our Chairman and ranking member will finally put an end to this practice by ensuring that consumers have access to their credit score. This will level the information playing field between consumers and lenders.

Specifically, S. 1753 would require credit bureaus to disclose a consumer's credit score upon application for a mortgage. The bill also would require any bank using a credit score to service a mortgage to provide the borrower with the information used to create this credit score. And the credit score,

whether obtained from a credit bureau, generated internally by the lender, or created by a third party, would have to be accompanied by a description of credit scores and the data used to generate them. This will go a long way toward demystifying credit scores for consumers. I think it is a real victory for consumers. And, again, I am proud to have worked with my colleague Senator ALLARD on this section of the bill.

So in conclusion let me say that I think the bill maintains the key foundation of the national credit system which has served consumers and the country so well—the ability to get instant credit, to get world class customer service, and to get some of the lowest credit rates in the world. And it enhances some of the new rights consumers need in this digital age we now live in.

Mr. CORZINE. Mr. President, I rise in support of the legislation currently being considered, "The National Consumer Credit Reporting System Improvement Act of 2003."

Before I get into the substance of the legislation, I would like to acknowledge the stewardship and leadership of Banking Committee CHAIRMAN SHELBY and Ranking Member SARBANES in developing this bipartisan proposal—which passed unanimously out of the Senate Banking Committee. Their efforts, and the work of their respective staff, are to be commended.

Through a series of six hearings they took a thoughtful, deliberative approach toward the myriad issues involved in fashioning this legislative proposal. In those hearings we heard from a variety of sources—regulators, industry participants, consumer advocates, and most importantly consumers themselves. Those hearings proved an invaluable tutorial to me and I imagine all the other members of the Banking Committee. More importantly, those efforts, and the comity shown by Senator SHELBY, created an environment of bipartisanship in the effort to enhance our national consumer credit reporting system—which is embodied in the bill now before the full Senate.

The Fair Credit Report Act has been central to the provision of credit in America. It has improved access to credit, and enhanced the security and accuracy of consumer financial information used in assessing creditworthiness. The expansion of our credit system, which the FCRA has helped drive, has proved enormously beneficial to our nation and our economy. It provides consumers with the ability to finance purchases of a car, pay a child's college tuition, purchase a new home, open up a new business or pursue some other lifelong dream.

Credit is the grease that makes the wheels of the economy turn—particularly our consumer-oriented economy which accounts for nearly 10 percent of our overall GDP. And the FCRA has provided millions more Americans, many of whom lacked the financial resources to pursue their dreams and

those who historically have been shut out, with access to our credit system—particularly minority and low-income households.

But we should not lose sight of the fact there's a great deal more that we can do before we claim that the playing field is truly level. With several of its provisions set to expire at the end of this year, it is imperative that Congress act now to reauthorize the FCRA, lest we risk a severe disruption to our economy that could result from a breakdown in our national credit system.

This legislation does that. In fact, it does more than just reauthorize the FCRA—a worthy objective in its own right. It enhances the obligations of those who use and store consumer credit information, it strengthens consumer control over their personal financial and medical information, it strengthens consumer protections against identity theft, and importantly it promotes consumer financial literacy. And this legislation includes important provisions that will strengthen consumer protections against the serious, and growing, threat of identity theft.

It's a serious crime and is rapidly becoming an epidemic. In fact, identity theft is the single largest consumer crime in America, as reported by the Federal Trade Commission. People whose identities have been stolen can spend months or years, at considerable cost, cleaning up the mess thieves have made of their good name and credit record. And while doing so, victims lose employment opportunities, can be refused loans, education, or even be arrested for crimes they didn't commit.

This bill directs federal banking regulators to develop guidelines and regulations to fight identity theft. It allows consumers who have, or may have, been a victim of identity theft to put banks and others on notice to guard against the continued use of their stolen identity through the use of "fraud alerts." It prohibits debts resulting from identity theft from being sold or transferred for collection, and it enhances criminal penalties for identity theft. It requires financial institutions to disclose when their customer data systems have been compromised. And the bill provides consumers with access to one free credit report per year from the credit reporting bureaus.

This access will allow consumers to monitor the accuracy of the information contained in their credit files and ensure that information resulting from identity theft does not end up destroying their financial reputation. These are all important provisions, and they are sorely needed.

I also want to speak to an element of this bill that has received little public attention, but will, I believe, be particularly beneficial in the long run—that is the provisions of the bill which promote consumer financial literacy. The Chairman and Ranking Member of

the Banking Committee noted the importance of the financial literacy provisions in their opening statements. They, and others, including Senators STABENOW, AKAKA and ENZI, deserve recognition for their commitment to improving the financial literacy of Americans young and old.

This bill seeks to harmonize the currently fragmented approach the federal government has taken towards promoting financial literacy. It establishes a Financial Literacy and Education Commission to streamline and improve financial literacy and education programs of the Federal Government, including curriculum development, for the benefits of all Americans.

And by providing consumers with a free credit report, and access to the information used by creditors to judge their creditworthiness, this bill equips consumers with the tools to competitively shop for sources of financing and will lead consumers to make better informed, more judicious, credit-related decisions. And, I might add, improved financial literacy will also help consumers protect themselves against identity theft.

The various elements of this legislative proposal that I've just outlined will prove beneficial to consumers, our credit system and our economy. It's a bipartisan bill that does a lot of very good things, and was put together in a balanced manner. Is it a good piece of legislation? Yes. Is it perfect to me? Certainly not. I personally think more can be done to give consumers greater control over the ways in which financial institutions share their personal information with their affiliates, for marketing, solicitations and other purposes. And I think we will need to revisit FCRA at some point to look at issues related to the increased use of credit scores as a determinant of one's suitability to gain employment, obtain car or medical insurance or rent an apartment.

In that regard, I want to thank Chairman SHELBY for graciously incorporating into this bill language I offered in committee that calls for a study of the impact credit scores and credit-based insurance score have on the availability and affordability of financial products so that we can explore this issue more broadly as we move forward.

But whatever issues I, or other members, may wish to raise with regard to S. 1753, there is no doubt that this legislation makes significant improvements to current accuracy and security standards of our consumer credit reporting system and our efforts to fight identity theft.

The standards contained in the legislation will make our credit system more robust and provide access to credit to even more Americans who seek it. In doing so, this legislation will prove beneficial not only to consumers, but also more broadly to our nation's economy.

I urge my colleagues to support S. 1753 when it comes up for final passage.

Mr. REED. Mr. President, I rise today in support of the National Consumer Credit Reporting System Improvement Act of 2003, which would reauthorize expiring provisions of the Fair Credit Reporting Act. I commend Senator SHELBY and Senator SARBANES for their hard work in addressing this issue and for putting forward a bipartisan bill to strengthen our Nation's credit system. The Banking Committee has held numerous hearings on all aspects of this issue over the past year that have highlighted the concerns of consumers, regulators, and private companies.

One of the cornerstones of our national economy is consumer access to credit. Access to credit allows for smooth functioning of our national economy with consumers able to get loans for homes, cars, and commercial purchases.

This is all made possible by having a national credit system, as first put into place by the Fair Credit Reporting Act in 1970, and then standardized by the 1996 amendments to the act. Uniform national standards have improved the efficiency of the system by reducing the regulatory burden on lenders, thereby allowing them to pass on better service and lower costs to consumers. Automated underwriting systems translate to quicker credit decisions and more convenience for borrowers and lenders alike, while making risk-based decisions more accurate.

Failure to reauthorize national standards would balkanize our national credit system and potentially hurt every consumer in America. The Banking Committee recognized this and voted unanimously to report S. 1753.

This important legislation includes numerous consumer protections against identity theft. I am alarmed by the abuses that have resulted in identity theft. With more and more financial and personal information being exchanged through electronic channels, there is an inevitable trade-off—sensitive information can fall into the wrong hands.

Over the past several years, identity theft has become a significant problem in the United States. According to a recent survey by the Federal Trade Commission, 9.9 million Americans were victims of identity theft in 2002, at a tremendous cost to consumer victims of \$5 billion in out-of-pocket expenses and \$48 billion in losses to business and financial institutions. Indeed, complaints to the FTC about identity theft have nearly doubled every year for the past 5 years.

By its very nature, this challenge requires coordination between the public and private sectors and between local, State, and Federal government. Identity theft is costly to consumers, costing New England alone over \$44 million in 2001. The impact on private financial institutions should be no less obvious, and these companies are essential to any attempts at prevention and consequence management.

S. 1753 represents a major step in this public-private effort to combat identity theft. Among many provisions, it would allow victims of identity theft to place fraud alerts in their credit reports, block fraudulent transactions from being reported, and prevent false information from "repolluting" credit reports in the future. It would require businesses to truncate credit and debit card account numbers on printed receipts. And it empowers consumers to ensure the accuracy of their own credit history by granting them a free annual credit report from national credit reporting agencies.

These are good steps. However, I believe that S. 1753 can be improved to address several other closely related consumer and privacy issues. We are seeing an increasing number of successful breaches of security at banks and processing companies, and we should address this trend head on in this debate. Just this past February, a computer hacker accessed 10.2 million credit card and debit card account numbers by breaking into a database maintained by a third-party transaction processor. This was the biggest credit card security breach ever in terms of the number of cards affected.

Citizens Bank, located in my home State of Rhode Island, felt that this breach posed a significant enough risk to cancel the debit cards of nearly 8,800 customers and issue them new cards. I applauded this quick effort to protect consumers. Unfortunately, not every bank matched Citizen's level of consumer care, and many decided that the cost of reissuing cards or informing their customers exceeded the risk to consumers.

In light of this less than comprehensive response, I would like to highlight one particularly troubling practice during this incident. According to media reports, even though some credit card issuers learned of the database intrusion early in February, they waited several weeks before disclosing the incident. Even with the zero-liability policies for the vast majority of major credit cards, debit card holders could see their bank accounts depleted, and all affected customers still run the risk of being victims of identity theft, even months or years after the security breach occurred.

Senator CORZINE has introduced an amendment that would require financial institutions, creditors, and users of credit reports to notify the FTC when the security of consumer financial information is accessed in an unauthorized manner. A mandatory and timely disclosure of such breaches will allow the Federal Government, along with the institutions and consumers, to closely monitor transaction information and mitigate the resulting damage from the breach.

An amendment from Senators CANTWELL and ENZI would further enhance these identity theft provisions with language from a bill passed unanimously by the Senate last year. Their

amendment would establish a single uniform procedure for individuals to establish that they are victims of identity theft, requiring a notarized FTC affidavit, a government identification, and a police report. It then gives these victims access to any business records related to their identity theft-related fraud, which today is a time-consuming and difficult task.

I would also be remiss if I did not address the much broader topic of privacy, a topic that is one of the most important issues to the American public. Privacy is important to Americans, as evinced by the overwhelming outpour of support for the national do-not-call registry, financial privacy legislation in California, and the Senate's unanimous vote against email spam. Indeed, Supreme Court Justice Louis Brandeis championed the right to privacy, calling it "the right to be let alone, the right most valued by a civilized people." I believe that we must continue the privacy debate that we began with the Gramm-Leach-Bliley Act and find the appropriate balance between consumers' privacy and the efficient operations of financial institutions.

I commend Senators SHELBY and SARBANES for including a targeted opt-out for affiliate sharing for marketing purposes in this bill, but I am not convinced that this step is sufficient. When Congress passed the amendments to the Fair Credit Reporting Act in 1996, affiliate sharing had a very different meaning. The Gramm-Leach-Bliley Act had not yet been passed, and massive financial services holding companies had not emerged. Today, according to the Federal Reserve's National Information Center, the largest bank holding company has at least 1639 affiliates as of June 30, 2003. The meaning of affiliate sharing has changed, and will likely continue to change as the financial services industry adapts to changing times.

In its report to Congress on the economics of financial privacy, the Congressional Research Service argues that in a world with imperfect information, financial institutions would have an incentive to offer some compensation to their customers if they had to obtain their consent to use and share their information. The CRS report makes a good point. Consumers' financial information is inherently valuable, and they should have the right to prevent it from being shared for marketing or other profitable purposes. Indeed, as personal financial information gets passed from affiliate to affiliate and is handled by an increasing number of people, consumers will be placed at a higher risk of becoming victims of identity theft. The choice of how that information is spread should ultimately be theirs.

Senators FEINSTEIN and BOXER have put forward a reasonable compromise on the matter of privacy and affiliate sharing. This amendment on affiliate sharing was drawn from the California

Financial Information Privacy Act, which was negotiated over the course of four years with industry and consumer representatives. There is no reason for me to believe that the situation has changed dramatically since the interested parties supported that legislation.

Finally, I would like to speak in support of one of Senator FEINSTEIN's other amendments on medical information. Even more than financial data, health-care related information should enjoy a special protection so that individuals will feel free to seek appropriate medical interventions and share all pertinent information with their doctors. Senator FEINSTEIN's amendment would fix the definition of medical information in S. 1753 to include mental and behavioral health information and health-related information that was collected for other purposes like for worker's compensation or casualty and property insurance.

As we debate S. 1753 and vote to strengthen our Nation's national credit system, we must renew our commitment to working to ensure consumer privacy amidst changing practices and standards in the market. With this in mind, I urge all of my colleagues to support this important bill.

Mr. ENZI. Mr. President, the bill we have before the Senate, the National Consumer Credit Reporting System Improvement Act of 2003, is clearly a bipartisan effort recognizing that our credit system has truly developed into a national market. The bill will provide consumers with greater tools to improve the accuracy and correctness of information contained in their credit reports as well as to provide important tools for consumers in combating identity theft. This bill is a very proconsumer bill and goes a long way towards enhancing consumer protections in our credit markets.

When the Fair Credit Reporting Act was first adopted in 1970, consumers spending had reached 566 billion dollars. At the time, that was quite an outstanding figure. By 2002, that figure had risen to over \$7 trillion.

In just this past decade alone, we have seen tremendous growth in the availability of credit. Much of this can be attributed to the technological advances in the way consumers can apply for credit, the review of credit applications by financial institutions, and the development of new and unique financial products. The incredible growth in the availability of credit in the housing, consumer, and small business markets is a testament to our financial markets. Accordingly, it also is a symbol of the national structure of our credit markets. I believe that this bill will further enhance the credit markets and provide significant consumer protections.

Two areas that I would like to focus on are financial literacy and identity theft.

With respect to financial literacy, I have witnessed how financial literacy

programs can make a difference for individuals who wish to, but never thought they could, purchase a home. In Wyoming, I have worked with a consortium of financial institutions, real estate professionals, colleges and universities, and non-profits to provide compressed video classes on how to buy a home. These classes have proven to be vital in reaching home-buyers and families in the rural areas of the State. To date, more than 4,000 families and individuals have taken part in the classes. The great success of this program has demonstrated to me the power that we can give to individuals and families over their finances if we gave them the tools.

In addition, I also worked with consumer credit counseling services that helped over-extended individuals and families to rearrange their life and breakout of debt. Credible advice makes a difference for financial power.

The Federal Government has a vast variety of financial literacy and education programs for Americans of all ages. Unfortunately, consumers have to struggle through the many Federal agencies' programs and initiatives to find the right financial literacy material for their needs. Title V of this bill will provide a one-stop-shop for consumers to reach the many, various financial literacy programs that the Federal Government provides. In addition, the Title will help bring consistency and focus to the Federal Government's overall financial literacy goals—something that does not appear apparent at this time.

Title V is built upon the successful model of the Trade Promotion Coordinating Committee in that it would bring the appropriate Federal agencies together to review and evaluate current financial literacy programs by the Federal Government. The Financial Literacy and Education Commission will make recommendations on how to coordinate and improve existing programs as well as how to reduce redundant and duplicative programs. I believe that the long-term cost savings to the Federal Government as a result of this review will be great. In addition, the commission will set forth a national strategy recommending changes to the President and Congress on how the Federal agencies can improve their financial literacy efforts.

I thank Chairman SHELBY for incorporating the bipartisan effort to promote financial literacy as Title V of the bill. In addition, I thank Senators SARBANES and STABENOW as well as the other members who supported this effort.

With respect to identity theft, the FTC recently released a study showing that more than 27.3 million consumers have been a victim of identity theft in the past five years and that the number is growing quickly. A little more than a month ago, one of my own staff became a victim of this crime. As you know, Senator CANTWELL and I have introduced identity theft legislation to

help victims to recover their identities, that legislation passed the Senate last Congress.

According to the Federal Trade Commission, identity theft is the fastest growing crime facing consumers today. Victims are faced with potential financial ruin when their identities, bank accounts, and credit histories are taken away from them by unscrupulous criminals.

Unfortunately, many victims face an uphill battle to restore their identities. In addition, Federal and local law enforcement officials are placed at a disadvantage by not having all of the available information to discover identity theft rings or patterns of identity theft criminals.

I believe that the provisions in the bill before us take a great step in helping the victims of this crime recover as well as providing proactive tools to help consumers prevent their identities from being stolen. In addition, the bill will give greater significance to the Identity Theft Affidavit and to the collection of information to combat identity theft crimes.

The National Consumer Credit Reporting System Improvement Act of 2003 is one of the most important pieces of consumer legislation that we have seen in years. It is truly a bipartisan bill that will enhance the fundamental structure of our credit markets as well as providing consumers with the necessary tools to use the credit markets and to protect against identity theft. I urge my colleagues to pass quickly this very important piece of legislation.

Mr. AKAKA. Mr. President, I rise to speak about an amendment that I have filed, but will not call up today in the interest of moving this legislation forward, with regard to Title V of S. 1753, the Fair Credit Reporting Act, FCRA, bill. I would like to thank my colleagues, Senators SARBANES, ENZI, STABENOW, and CORZINE, for their diligent work on Title V to establish a Financial Literacy and Education Commission. This commission will help tremendously toward coordinating the myriad efforts of Federal agencies to increase financial literacy in this country and creating a comprehensive national strategy as an important blueprint to follow.

As a part of this effort, I believe it is important to emphasize the need for public awareness about the importance of financial and economic literacy. My amendment is similar to a bill introduced in the other body by the gentleman from California, Representative DAVID DREIER, and cosponsored by several colleagues on both sides of the aisle, that would establish a pilot national public service multimedia campaign to enhance the state of financial literacy in this country. It would authorize \$3 million over 3 years for this purpose.

My amendment differs in that it coordinates this public service multimedia campaign with the Federal Com-

mission created by S. 1753 and the national strategy that would be produced by the commission. It would authorize the commission to work in collaboration with an entity accomplished in public service campaigns that has secured private sector funds to supplement federal funding and community organizations well-qualified by virtue of their experience in the field of financial literacy and education. My amendment also requires that performance measures be developed to measure the effectiveness of such a public service multimedia campaign, via positive changes in behavior with respect to personal finance. It is paramount to be able to assess the effectiveness of the campaign and other financial literacy efforts so that we understand what works and does not work, and can replicate our successes into the future.

I will continue to work with my colleagues on the Banking Committee and their counterparts in the other body to include the language in my amendment in FCRA legislation during their negotiations following Senate passage of S. 1753. It is important that we continue our coordinated efforts to ensure that Americans are financially literate, which will encourage better decision-making by individuals, stronger families, better-functioning markets, and a more secure future for our Nation.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 2054

(Purpose: To make an amendment regarding affiliate sharing)

Mrs. FEINSTEIN. Mr. President, on behalf of Senator BOXER and myself, as well as Senators HARKIN, FEINGOLD, DURBIN, LAUTENBERG, and NELSON, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California, [Mrs. FEINSTEIN], for herself, and Mrs. BOXER, Mr. HARKIN, Mr. FEINGOLD, Mr. DURBIN, Mr. LAUTENBERG, and Mr. NELSON of Florida, proposes an amendment numbered 2054.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mrs. FEINSTEIN. Mr. President, the bill before the Senate in its current form allows huge conglomerates, with just limited restrictions on marketing, to freely share vast quantities of personal customer information with commonly owned companies even if a consumer asks that the information not be shared.

Let me list the types of information we believe could be shared among companies that have common ownership—called affiliates—under the bill: Information mined from your check and credit card payments such as your political or charitable contributions, your magazine subscriptions, your liquor purchases, the location and identity of stores you frequent; the stocks you own and stock trading patterns; the cash you have in the bank; when your certificates of deposit mature; how much you owe on a credit card and

what rate you get; your insurance claims history such as whether you pay your premiums on time, how many claims you have made and whether claims were paid out; how many times a consumer called the company's call center or complained about the company's service; an employee's work history, including performance ratings, use of sick days, vacation, and salary.

To make matters worse, the bill permanently preempts States from taking stronger action.

What we have before the Senate today is a weak privacy standard built for businesses at the expense of consumers which legislatures in all 50 States are forever barred from improving.

I am particularly concerned that financial institutions in California, with the lone exception of the California Credit Union, negotiated and signed off on State legislation resolving this issue, and now the same financial institutions are trying to eliminate the California law with national legislation.

I will spend just a moment on that because it is important. Essentially, the banks and financial institutions in California worked with the State legislature in crafting the California law that has an opt-out for affiliate sharing. The reason they did so was because waiting in the wings was a well-funded initiative to pass an even stronger privacy law. They knew the people of California would pass that privacy law.

Senator Jackie Speier, who was the author of the California privacy bill, has sent Senator BOXER and I a letter. I will read two paragraphs from the letter.

"It has recently come to my attention that the financial services industry has been criticizing the contents of your amendment to S. 1753, substituting the newly-enacted and stronger California privacy standard on affiliate sharing in the 'corporate family of companies,' as unworkable and unreasonable. This same industry recently called my California bill 'workable and reasonable,' specifically removing their opposition to my measure and lavishing praise upon it, even helping to gather votes. Industry made it clear that my bill met their workability concerns, progress made with their active participation. If my bill was workable for industry in California, then why shouldn't it be the national standard?"

"One industry representative stood with me on that day and said my bill 'encompasses all aspects of the workability needed to ensure protection of consumers' privacy,' while another called it 'a balanced measure that will provide meaningful privacy protections to consumers while also addressing the workability concerns.' . . . Now the story is different, as industry sees a political opportunity to preempt California's standard on affiliate sharing with a weaker one."

I ask unanimous consent the entire letter be printed in the RECORD.

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

CALIFORNIA STATE SENATE,
October 24, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senator, Hart Senate Office Building,
Washington, DC.

Hon. BARBARA BOXER,
U.S. Senator, Hart Senate Office Building,
Washington, DC.

DEAR SENATORS FEINSTEIN AND BOXER, I wish to thank you for your efforts on behalf of consumer privacy rights, and urge you to continue to do all that is possible to protect California's hard-fought consumer privacy gains.

It has recently come to my attention that the financial services industry has been criticizing the contents of your amendment to S. 1753, substituting the newly-enacted and stronger California privacy standard on affiliate sharing in the "corporate family of companies," as unworkable and unreasonable. This same industry recently called my California bill "workable and reasonable," specifically removing their opposition to my measure and lavishing praise on it, even helping to gather votes. Industry made it clear that my bill met their workability concerns, progress made with their active participation. If my bill was workable for industry in California, then why shouldn't it be the national standard? A transcript of their August 14, 2003, public comments bear this out and is attached.

One industry representative stood with me on that day and said my bill "encompasses all aspects of the workability needed to ensure protection of customers' privacy," while another called it "a balanced measure that will provide meaningful privacy protections to consumers while also addressing the workability concerns" that industry had. Now the story is different, as industry sees a political opportunity to preempt California's standard on affiliate sharing with a weaker one.

The financial services industry appears to be acting in bad faith—it seems willing to say and do anything to erode California's recent progress on behalf of consumers, first to avoid a costly initiative battle and local ordinances limiting third-party sharing, now to pull the wool over Congress' eyes. Does the financial services industry really believe that millions of American consumers don't deserve a choice over what happens when their personal financial information, their financial DNA, is shared with thousands of affiliated companies? The industry's position is flawed public policy, weaker than their own standards abroad, and the kind of business practice that erodes consumer confidence.

I urge you to continue your efforts in making California's privacy standards those of the nation. California's affiliate standard was good enough for the financial industry two months ago; it certainly is acceptable now. Thank you again for your efforts; I stand ready to help you in any way possible.

All the best,

JACKIE SPEIER,
California State Senator, 8th District.

Mrs. FEINSTEIN. Mr. President, while I was in California, I met with the CEOs of the major banks. It became very clear to me at that time what they were going to do. They were going to come back here and they were going to get a national standard that clearly preempted the California opt-out.

Incidentally, we have modified the amendment I have sent to the desk. I

know there was some criticisms of the amendment. We have tightened it up. I think it will stand the test of scrutiny. This amendment protects American consumers' basic privacy rights. It creates a national opt-out standard for affiliate sharing. This would give consumers the choice of whether their personal information can be shared among unrelated companies in a corporate family of companies.

Under the amendment, a company would have to notify a consumer that it intended to share the consumer's information with unrelated affiliates and give the consumer the opportunity to opt out of this sharing. If the consumer does nothing, the institution is perfectly free to share the information.

This amendment is fully sensitive to the real-life demands of business. Where there is a legitimate business need for the information, this amendment provides exceptions to the opt-out.

First and foremost, related affiliates—which are defined as affiliates in the same line of business with the same functional regulator and with the same brand name—are exempt from the opt-out.

Second, the amendment does not affect the ability of companies to have common databases with their affiliates so long as the information is not accessed, disclosed, or used by the affiliate. This is one of the arguments they have raised that this exception is a big loophole. Answer, untrue. While a common database can exist, the amendment explicitly states that an affiliate cannot access or use the information in a manner inconsistent with the consumer's opt-out.

Third, to use consumer information to complete transactions; fourth, to protect against or prevent actual or potential fraud or identity; next, to comply with Federal, State, or local laws and to do data processing, billing, or mailing. This amendment does not affect the ability of affiliated companies to do any of these six things. There are a number of other standard exceptions.

Before I go into detail describing the amendment. I will spend some time talking about the shortcomings of the "National Consumer Credit Reporting System Improvement Act" with respect to a person's natural privacy and why this amendment is needed.

At the outset, I recognize the author of the bill, Chairman Richard Shelby. He has met with me and I am grateful for that meeting. He has listened to my concerns. He has made longstanding efforts to balance the rights of individual privacy with legitimate business needs. I deeply respect the commitment of Senator SHELBY to consumer privacy. It is well known. He deserves recognition for his work to strengthen the privacy provisions of the Driver's Privacy Presentation Act and for introducing legislation to require an opt-in for affiliate sharing in the 106th Congress.

In the 107th Congress, he joined me as a cosponsor of the Identity Theft

Prevention Act. Many of these provisions he has incorporated in the bill on the floor today, and I thank him.

I also thank Senator SARBANES. I think his record on privacy is equally impressive. He fought hard to create the opt-out standards for nonaffiliated third parties during enactment of the Gramm-Leach-Bliley financial services modernization law. I have the utmost respect for his work on privacy legislation. He is a champion of consumer privacy.

The American people should know this about both of these Senators. It is just that Senator BOXER and I have a very strong view on the need to give consumers this opt-out on affiliates.

I also recognize this bill has a number of provisions I strongly support. It entitles every consumer to a free credit report. That is great. It creates fraud alerts. Great. It creates a national standard for truncating credit card numbers on store receipts. That is great.

I was delighted, because when I introduced identity theft legislation earlier this Congress, the chairman and CEO of Visa, Carl Pascarella, came and held a press conference and indicated that Visa was not going to wait for the bill, they were going to go ahead and truncate all but the last four digits, in any event, on their credit cards. As of June, all the new merchant terminals using the VISA system—affecting tens of millions of Visa credit cardholders—do have that truncation. Shortly, Visa will have all other stations truncating as well.

This morning Senator KYL and I held a hearing on hackers getting into data bases and how you prevent that from happening. Visa testified, and it is clear they have taken this very seriously with a very elaborate system to get at the problem and to use technology to solve it.

So all these provisions were included in legislation that I have offered over the last 4 years, and I am very grateful to both the chairman and ranking member, who are here on the floor, that they have been incorporated into this bill. So I say, thank you, Senator SHELBY; thank you, Senator SARBANES.

Now, I think, though, that some of these needed provisions just become window dressing, if you really can't protect a person's privacy. The affiliate sharing provisions of the legislation would set that back because the information age is going to move ahead rapidly. That is one of the problems: Technology finds a way of moving ahead so fast before we have a chance to see that there is an appropriate regulatory system in place.

So the debate today over this bill is really part of a great struggle over whether Americans—ordinary Americans—will have basic control over the most elemental parts of their identity, and whether we can stop the misuse and commercialization of their most personal information.

Most Americans, I believe, consider their personal information their private property. I do. I consider my health data my personal data, my financial data my personal data. When I do business with a bank, I do not expect to see my mortgages purchasable on the Internet for \$15 or \$20. I do not expect somebody to buy my Social Security number over the Internet, or anything of that kind. Nor do I expect the bank with which I do business to give my data to a thousand—and it can be a thousand—of their affiliates so their affiliates can contact me about traveling with them, investing with them, that they have a better scheme than my checking account. I do not expect that, and guess what. I do not think the majority of Americans do, either.

To give you a sense of the groundswell of public support for privacy, I would like to mention a survey of California voters by Fingerhut Granados Opinion Research on February 7 of this year.

The statewide survey found that by a massive 91-to-7 percent margin, California voters would favor a ballot proposition—and let me quote what it would say—that “would require a bank, a credit card company, insurance company, or other financial institution to notify a customer and receive a customer’s permission before selling any financial information to any separate financial or non-financial company.”

Mr. President, 91 percent would support an initiative to do just that. So they are supporting not opt-out, which is a lower, lesser standard, but they are supporting opt-in when it comes to affiliate sharing. Similar polls across this great land have reflected a landslide of support by Americans for stronger privacy laws.

In my 10 years in this Senate, I have never seen anything like it. There is a groundswell out there, let there be no doubt.

Here in the Senate we have taken some strong action to protect privacy in recent months. In one day, the Senate drafted and passed a bill upholding the “National Do Not Call” list. Recently, we passed legislation limiting e-mail spam. In each of these cases, Congress accepted the near unanimous will of the public that there should be limits on when and how commercial entities can invade ordinary Americans’ privacy—be it at their homes from telemarketing calls or on their computers from endless e-mail spam.

These concerns are equally present in the debate over affiliate sharing, except the dangers to privacy are so much more insidious. Americans are fully aware of telemarketing calls because their dinners and evenings at home are interrupted by them. Americans are fully aware of spam because their e-mail is clogged with them. In the case of affiliate sharing, most Americans are not aware that their personal information travels from their bank to hundreds or even thousands of other companies.

What is an affiliate and why should we be concerned about the sharing of information among affiliates?

Affiliates are companies related by common ownership. As one example, Travelers Insurance, Diners Club International, Citi Financial, and Salomon Smith Barney are all affiliated companies owned by Citigroup. So the types of businesses that financial institutions can be affiliated with run the gambit: insurance companies, so you can be bugged by insurance companies; securities brokerages; mortgage lenders; travel agencies; retailers; automobile dealers; collection agencies; financial advisers; tax preparation firms. I even think they buy them just for this reason.

In 1999, Congress passed the Gramm-Leach-Bliley Act, which repealed portions of the Glass-Steagall Act that prohibited banks from entering into affiliations with other lines of business. So it became fair game. These financial institutions have moved, in a major way, to affiliate themselves with a tremendous array of businesses. These include insurance and securities brokerages, as I said, mortgage lenders, “pay day” lenders, finance companies, and on and on and on.

It could include investment advisers who are not required to register with the Securities and Exchange Commission. These are not mom-and-pop companies. The top dozen U.S. banks and financial institutions alone control thousands of health and life insurance companies, home mortgage companies, car loan lenders, housing developments, securities brokers, and other businesses.

Take a look at this. Citibank alone has 1,736 affiliates which they own. They own a mortgage company, an insurance company, a student loan corporation, Travelers Life and Annuity, Diners Club International, and Salomon Smith Barney holdings. This becomes a veritable goldmine of information trading for them, and the information that is traded is your personal information that lets an insurance company, or a mortgage company, or an investment banking company know where to go to get business.

Morgan Stanley has 628 affiliates, including the Discover Card, Dean Witter Realty, Southeastern Energy Corporation, and a number of insurance companies.

Wells Fargo, headquartered in my city of San Francisco, has 777 affiliates, including, again, a mortgage company, Advance Mortgage, Dial Finance Company, Pacific Rim Health Care Solutions, Tower Specialists, Norwest Auto Finance, and Auto Risk Managers. Again, a veritable treasure trove, a goldmine for the sharing of private, personal information.

Bank of America has 815 affiliates, including T-Oak Apartments, Stanton Road Housing, NationsBanc Insurance Agency, and General and Fidelity Life Insurance. By mining data from their affiliates, these corporations can com-

pile vast dossiers on consumers to use to their commercial advantage. An affiliated company can call you up with full knowledge of your financial history and offer you credit cards, securities, loan consolidation, whether you need it or not, and you have no way to prevent the company from using your most intimate personal information.

Consider the following case: Several years ago, Nationsbank paid fines of \$7 million to the Securities and Exchange Commission and other agencies over its sharing of confidential customer financial statements and account balances with affiliated securities firms. Nationssecurities used the account information to identify those bank customers who had expiring certificates of deposit. Sales representatives then marketed to these customers highly leveraged investments, mischaracterizing them as straightforward U.S. Government bond funds. Investors, 65 percent of whom were over 60 years old, lost millions of dollars from this practice.

While Nationsbank paid a fine for its false and misleading sales practices, its sharing of customer information was perfectly legal under existing law. We need stronger laws to protect us from the potential predations of affiliate sharing. Unfortunately, the Senate bill does not rise to this test.

The 1996 Fair Credit Reporting Act standard on affiliate sharing, which is, for the most part, preserved in S. 1753, is not a strong national standard. The 1996 act permits financial institutions to share “transaction and experience” information with affiliates without restrictions. This experimental standard has proven vague and unworkable. Even though the 1996 act has been in effect for 7 years, no one can definitively say what the terms “transaction and experience” information mean.

When I asked the CRS to explain the FCRA standard, here is what they said:

The [Fair Credit Reporting Act] does not offer a definition of a phrase, nor does the act provide any guidance with respect to what types of information may be included. Furthermore, none of the Federal bank regulators, nor the Federal Trade Commission, have promulgated regulations regarding the definition of “information solely as to transactions or experiences” or what information may be included in such.

Finally, discussions with industry representatives did articulate a consistently used definition of what constitutes a “transaction or experience” information.

In essence, both the House bill and the Senate bill maintain an exemption for the sharing of personal information, which nobody has defined.

Seven years after passage of the 1996 FCRA amendments, neither Congress, nor the Federal Trade Commission, nor any other agency has defined the term. An empty standard is a nonenforceable standard. I think America’s personal privacy deserves better protection.

Consider again the sensitive information which could be shared among unrelated corporate affiliates if we allow the current standard to stand. This

chart refers to the information I have just been over: an employee's work history, including performance ratings, sick and vacation days, safety, whether the consumer is a complainer or not, can go out to all affiliates, your certificates of deposit maturity dates, so somebody can contact you when that certificate matures; stocks you own, so others can approach you. Then there are the personal things, such as political contributions, charitable contributions, your magazine subscriptions.

Think about that. These companies develop a personal profile on who you are and what you like, and then tell other companies about you. Today, I heard testimony at a Senate Judiciary Committee hearing about someone who shopped at Victoria's Secret who had their personal information used in that way. That is what this allows.

The collection of this information is not hypothetical. In Great Britain, unlike the United States, companies are required by law to file a report with the Government on the type of information they collect about consumers.

Here is what Citibank reported to the British Government about the type of information it was collecting about British citizens for marketing purposes. I think it is likely they collect the same information about United States customers. This information includes: personal identifiers, financial identifiers, identifiers issued by public bodies, personal details, habits, current marriage or partnerships, details of other family, household members, other social contacts, accommodations or housing, travel movement details, lifestyle, academic record, membership of professional bodies, publications, current employment, career history.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. Mr. President, I am not aware of a time limitation.

The PRESIDING OFFICER. There is a previous order to recess for the policy meetings at 12:30 p.m.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I might be permitted to continue when the Senate resumes.

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

Mrs. FEINSTEIN. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL CONSUMER CREDIT REPORTING SYSTEM IMPROVEMENT ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, under the order, the Senator from California has

the floor. If I may propound a unanimous consent request, the Senator from California is going to speak for approximately another half hour or thereabouts. Following that, Senator DURBIN and Senator MCCAIN wish to speak on matters unrelated to the matter now before the Senate. To save a lot of confusion, I ask unanimous consent that following the remarks of the Senator from California, Senator NELSON of Florida be recognized for up to 3 minutes; following that, the Senator from Illinois, Mr. DURBIN, be recognized for up to 15 minutes; following that, the Senator from Arizona, Mr. MCCAIN, be recognized for up to 20 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, we usually go back and forth, I tell my friend.

Mr. REID. The Senator from Arizona wishes to go before Senator DURBIN?

Mr. MCCAIN. Yes.

Mr. REID. That is fine. I thought it was the reverse order. I ask that the unanimous consent request be modified so that Senator MCCAIN be recognized prior to Senator DURBIN.

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

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California is to be recognized.

Mrs. FEINSTEIN. Mr. President, the Senator from Florida has asked if I would yield for just a short time before I begin. Is that agreeable?

Mr. REID. That is in the unanimous consent order. It is up to the leadership. However, after Senator FEINSTEIN completes her statement and Senator NELSON completes his statement, I rather doubt they could do that, but somebody could move for a vote prior to that time. I don't suggest anyone doing so. It could happen.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, is it possible for me to yield for 3 minutes to the Senator from Florida?

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

AMENDMENT NO. 2054

Mr. NELSON of Florida. Mr. President, I rise to support the amendment of the Senator from California and to point out that I think the committee has done a very good job on the underlying bill. They address the question of medical privacy in the bill where a big holding company might have a subsidiary company, such as an insurance company, and an individual, when they get a life insurance policy, will have to get a doctor's examination, so that in the bosom of that health insurance company would be medical records. That health insurance company may be owned by a bank.

What the underlying bill does is protect against someone having their per-

sonally identifiable medical information shared throughout that holding company and shared with those who would want to market that personally identifiable medical information.

However, the underlying bill does not protect on the personally identifiable financial information, so that one part of a holding company could have personally identifiable financial information such as how much you take out of your ATM, what kind of purchases you make on your credit card, what time of day or what time of the week you go and make deposits in your ATM or take out from your ATM. Those things that are personally identifiable ought to be private unless the individual consumer says they are willing to have that information shared among the holding companies.

That is one of the things the amendment of the Senator from California addresses which, if we are going to take privacy seriously, we need to address. That is why I support the amendment of the Senator from California.

I yield the floor.

Mrs. FEINSTEIN. I thank the Senator from Florida and I thank the Chair for allowing this opportunity for the Senator to make a statement. I think he is referring to an amendment that I will introduce at a later time having to do with clearing up the health definition in the bill.

The health definition in the bill is archaic. The vast majority of states have adopted more fully inclusive definitions, and we would like to have that definition in the bill.

Prior to the break for lunch, I was beginning to explain why the bill before us has a weak privacy standard on affiliate sharing. Specifically, the underlying bill permits financial institutions to share a customer's transaction and experience information with affiliates with few, if any, restrictions. As I stated, transaction and experience information could include extremely sensitive information about individuals such as their bank account balance and data mined from their check or credit accounts or where they buy goods.

If consumers cannot preserve the privacy of their bank balances or the places they go to make purchases, they do not have meaningful privacy protections. That is the weak privacy standard that will become the national norm if this bill passes the way in which it is envisioned.

Supporters of the existing weak standard argue that America's credit environment has thrived since 1996. So they say, why mess with a system that is working? I challenge that assertion.

First, because transaction and experience information remains undefined. As I pointed out before lunch, we asked the CRS to look at current law. We asked them how they would define "transaction and experience" information. They said it has never been defined. So it is questionable whether any privacy regime at all exists for the bulk of affiliate-sharing practices.