United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, TUESDAY, NOVEMBER 4, 2003 No. 158

Senate

The Senate met at 9:33 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of love, we praise You because You are good. You made the Sun to rule the day and Your love is eternal. We receive strength from Your kindness and power from Your favor. You choose to bless us even when we don't deserve it. Great and marvelous are Your favors.

Lord, this is Your world and Your purposes cannot be stopped. Use us as Your instruments to accomplish Your will.

Today, give Members of this body courage and strength for their important work. May they avoid those words that create division and work toward a harmony that builds and strengthens. Give them radiant health for these challenging days and a serenity that comes from trusting You. Help them to find fulfillment in the knowledge that their work will help keep people free. We pray this in Your powerful name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will have a period of morning business for the first hour of the day's session. Following that hour, the Senate will begin consideration of the fair credit reporting legislation. The consent agreement governing that bill allows for a limited number of amendments to be offered to the legislation. We hope to complete action on that bill during today's session.

Last night we were also able to reach an agreement on H.R. 1828, the Syria accountability bill. We may be able to schedule consideration of that measure during today's session as well.

Rollcall votes will occur throughout the day today. The Senate will recess from 12:30 to 2:15 for the regular party luncheons.

In addition to the items I have mentioned, the Senate will act this week on the Internet tax moratorium extension. I anticipate that debate to begin on Thursday, and we will complete that before the end of this week.

Also, additional appropriations conference reports may be ready during the week, and we will proceed to those that are available.

It is my understanding the military construction conference is completed, and that may be ready for consideration this week.

We will continue to schedule votes as necessary over the course of the week.

This week we will also continue on the appropriations bills. I have been speaking to the chairman of the committee, and it is hoped the remaining bills can be finished in a timely way. I will have more to say on the specifics of the appropriations schedule after further discussion with the chairman, Senator STEVENS, and the Democratic leadership as well.

With that said, in order for us to adjourn at the earliest time this year, it is important for all of our colleagues to recognize we are going to need to work every day and have productive days. That is going to include Mondays, and it is going to include Fridays. It will likely include each day next week. I know a lot of Senators are wondering about their schedule for next week, given the Veterans Day holiday. I think over the course of the morning we will be able to lock in an understanding in terms of how and when we can consider these appropriations bills.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

After that is done, we will clarify what will happen on Veterans Day.

We have all come to the floor many times to express our desire to finish our work at the earliest opportunity and, in my mind, we have 3 weeks—actually, it is less than 3 weeks—now to complete our work. In order to do that, we will have to work together. We will have to have full, productive days, including Mondays and Fridays. It may well be we have to even consider weekends in order to complete our business. We will monitor the schedule and progress closely over the next day or so and make those final decisions regarding scheduling next week. At this time, I think all Members should prepare for a very busy 2½ weeks.

Again, I would like very much for us to work together to shoot for a total of 3 weeks, around November 21, to depart.

Mr. REID. Mr. President, let me say on behalf of the minority that we are most happy to work on all the items the majority leader has mentioned. We look forward to working with the chairman of the Appropriations Committee and Senator BYRD to move more of these appropriations bills. I think we have a really outstanding record working with the majority on appropriations bills and will continue to do that. We feel it is vitally important. The conference which was completed last week was extremely difficult and long. But we now have a bill which the President has.

We finished the Interior appropriations conference report. I am happy to hear we have a completed military construction conference report. That wasn't easy. Everyone had to take their projects in their States and cut back from what they had.

We look forward to a productive 2½ weeks. I hope we will do everything we can to complete our business before Thanksgiving.

We are here to work nights, weekends, whatever it takes, to complete that work.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee.

Mr. REID. I suggest the absence of a quorum.

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

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

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

Mr. DORGAN. My understanding is we are in morning business.

The PRESIDENT pro tempore. The Senator is correct.

JOBS IN AMERICA

Mr. DORGAN. Mr. President, I bring to the attention of the Senate an issue dealing with jobs. It is a story about international trade, unfair competition, and the impact it has had on countless of our workers.

There was great euphoria a week or so ago about the economic growth numbers for the past quarter, some 7-percent economic growth. The problem is, it was accompanied by a loss of jobs.

Jobs are the kind of thing that families talk about in the evening as they sit around the supper table: Do I have a good job? Does it pay well? Do I have job security? Do I feel good about the company I am working for?

Our country, regrettably, has lost nearly 3 million jobs in the past several years.

This is a picture of a bicycle. This happens to be a Huffy bicycle. Huffy is a well-known brand. It is sold at Wal-Mart, KMart, Sears. This Huffy bicycle used to be made in the United States. In Celina, OH, some 850 U.S. workers worked manufacturing bicycles.

When a bike came off the Ohio plant's assembly line, they would put a little decal on, of an American flag.

That was then, this is now. In the last couple of years, those jobs have all moved to China, Taiwan, and Mexico. There were about 1,850 workers at Huffy plants in the United States as of 1998. And all those folks were fired, as their jobs were moved overseas.

In Celina, OH, Huffy workers were paid $11 an hour plus benefits. These are decent manufacturing jobs. Nobody was getting rich on $11 an hour plus benefits, but these were good, solid jobs.

Then they were told one day they would not be working those jobs any longer because Huffy bicycles would be produced in China.

My understanding is that the very last assignment for these U.S. workers was to take off that decal from Huffy bikes, and slap on a decal that had a picture of the globe.

Let's talk a little about why a company would decide to shut its plant in Ohio and make bicycles in China.

Huffy started to manufacture its bikes at a plant in China, where workers have to put in 13½- to 15-hour shifts, from 7 a.m. to 11 p.m., 7 days a week.

Let me say that again: 93 hours a week, 7 days a week, from 7 a.m. to 11 p.m.

They are paid between 25 cents an hour and 41 cents an hour. Failure to work overtime is punished with a fine of 2 days' wages.

There are strong chemical odors in the plant from the painting department, excessively high temperatures from the welding section, no health insurance, no social pension, strict factory rules, harsh management, no talking during working hours.

Twelve workers are housed in each dark, stark dorm room. They have two meals a day, with poor quality food. If the workers complain or attempt to raise a grievance about harsh working conditions, or excessively long, forced overtime hours or low wages, they are immediately fired.

In this particular plant, in late 1999, all the workers in the delivery section went on strike and were fired immediately.

So the question is, if we cannot produce bicycles in Ohio for 25-cent-an-hour to 41-cent-an-hour wages, do U.S. workers lose? Under current circumstances, yes, we do, because companies decide that if U.S. workers can't compete with slave-like conditions, tough luck. If you can't compete, you are out.

So people who were working in this company in Celina, OH, making bicycles for our marketplace, could not compete because they were expecting a liveable wage. They worked hard, and they were able to take a paycheck home that meets the needs of their families: $11 an hour plus benefits. But they were told that this was an outrageous level of compensation: $11 an hour—far too much.

So instead Huffy found a place where it could pay 25 cents an hour, and then shipped its bikes back to Celina, OH, so that some young kid in Celina, OH, could go into a Wal-Mart or a Sears or a KMart, and with a gleam in their eye buy his first bicycle. A bicycle now made by somebody who is making 25 cents an hour, working 93 hours a week, 7 days a week.

I guess this so-called globalization is globalization without rules. It means it does not matter that Americans lose their jobs to somebody making 25 cents an hour.

I have given other examples of 12-year-olds working 12 hours a day, making 12 cents an hour. I am talking about Huffy bicycles today to drive home a point, because Huffy is a household name.

If we fought for a century on the issue of a safe workplace or child labor laws or minimum wages or the conditions of production, then the question should be, Is there an admission price to the American marketplace? Is there any admission price at all?

What about bicycles made in a plant where workers are working 93 hours a week, where workers are working from 7 a.m. to 11 p.m., 7 days a week? Is that fair trade—25 cents an hour, 93 hours a week, 7 days a week, working in a factory that does not meet the basic conditions of fairness or safety for workers?

Is that fair trade? It is not where I come from. Yet no one will say a word about it. In this town, you are either blindly for free trade, unfettered free

trade, globalization, or else you are considered some xenophobic isolationist stooge who does not understand it all.

It is so tiresome to see people in this Chamber and the people who write the editorials and the op-ed pieces to continue to make excuses for the thousands, and, yes, millions of jobs lost in this country by people who worked hard but who could not make it because they made too much money. They could not compete with somebody making 25 cents an hour in Asia. It is so tiresome to see and read and hear the excuses from those who continue to support a failed trade policy.

If this is a race to the bottom, with corporations deciding they want to circle the globe to find out, ''Where can I produce the cheapest? Where can I find 12-cents-an-hour production by 12-year-olds?'' if that is what this is a race towards, we lose, this country loses.

More and more families in this country will lose their jobs, not because they are not great workers, not because they do not know their job well, but because someone else in other parts of the world—where they are not able to form labor unions, where they are not able to complain about unsafe working conditions, where they are not able to stop a plant from dumping chemicals into the air and the water, and where they are not able to complain about being paid 12 cents or 20 cents an hour—will get the jobs.

That product will then be made and sent back to the store shelves here. I will guarantee you, it will not be cheaper, it will simply represent more profit for those who took jobs away from Americans to give them to people in other parts of the world who will work for pennies an hour.

We can continue to pretend it does not happen. We can continue to act like ostriches. But the fact is, this country is losing economic strength as a result of trade policies that are, in my judgment, incompetent.

We will have on the floor of this Senate, very soon we hear, additional free trade agreements—the Australia agreement, the Free Trade Agreement of the Americas. In fact, this administration is now working on additional free trade agreements. We just did one with Singapore which itself was incompetent. But that is another story for another time.

This country, it seems to me, has a great deal at stake. This economic engine of ours will work provided we have jobs for American families. When you see the decimation of our manufacturing base, and now our high-tech industry, as well, with jobs moving wholesale overseas—in the manufacturing base, moving to Indonesia, China, and other parts of Asia; in the high-tech industry, jobs moving to India and other countries, and moving en masse—then this county's economy is going to have trouble because the engine of progress in this country is jobs.

You can talk all you want about percentages—7 percent economic growth; that is all great—but it does not mean a thing if we are losing jobs. The engine of progress for the American family, the engine of progress for this country's economy, is jobs, good jobs that pay well, that have decent benefits, that give a family confidence and hope about the future, because that hope and confidence is what expands the economy. That is all the economy rests on.

The great minds involved in international trade tell the 850 workers in Celina, Ohio: you are paid too much money. You cost $11 an hour to build bicycles. Shame on you. We can do this for 25 cents an hour in China. So say goodbye to your jobs. We are taking them to China.

Is that what we want for our country? Is that what we are willing to stand for? Well, I am telling you something, year after year after year, the majority of the people in this Chamber are willing to stand for it. At some point we better get a backbone to stand up and insist and demand that there is an admission price to the American marketplace. We are open and free, but we require fairness.

There are thousands of examples like the one involving Huffy bicycles, all over this country—of someone coming home saying to their husband or wife: Honey, I have lost my job. They are shipping our manufacturing to China, or Indonesia, or Bangladesh, or Sri Lanka. Why? Because I didn't do a good job? No. Because I am making $11 an hour, and they say that is too much. They can get it for 15 cents an hour or 31 cents an hour somewhere else.

This is not going to save the American consumers any money; they will charge the same price for the products. It is about profit—international profit.

This is hurting our country. These trade rules injure this country and we have to change them. I serve notice again that, as we negotiate these new trade agreements—and they are being negotiated in Australia, the free trade agreement with the Americas, and others. Be aware that some of us in the Senate are going to continue to fight as hard as we can possibly fight to say that what is happening to American jobs is wrong.

If we are inefficient and cannot compete, that is our problem. But don't tell me the workers in Ohio making $11 an hour, building a good bicycle, with an American flag insignia on the front of it, are inefficient.

We fought for a century over these issues—fair pay, safe workplaces, the ability to organize as a labor union. We worked for a century on these things, and now you wipe it all out by pole-vaulting over those nettlesome little laws in the United States and say: We can avoid that. We will ship our bicycle production to—in this case, China; it could have been Sri Lanka or Indonesia.

We ought to think long and hard about how to save our jobs in this country. Our marketplace can certainly be enhanced by having goods and services come from other countries, but only when they are produced under some basic element of decency and fair play.

There is an organization I want to give credit to that has done excellent work in this area. The National Labor Committee investigates unfair labor practices in various parts of the world. They have investigated the dismal labor conditions at the Huffy factories in China, as an example.

Look, I think these are really important issues. We talk about the economy, expansion, jobs, and opportunity. All of this, in my judgment, comes down to the basic premise that when American families in this country have a job, they have security, and they feel good about the future, our economy thrives. But we are increasingly seeing jobs in this country, which have been the bulwark of support for American families, moved overseas and the American families are told: We are sorry, you don't have a job anymore, so you can find two or three part-time jobs to make up the difference and have all of the members of your family working, and you can make it that way.

That is a quick way to undermine the strength of this country. No country will long remain an economic power or world economic power without a strong, vibrant, growing manufacturing sector. Ours is being decimated.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Florida.

Mr. NELSON of Florida. Madam President, how much time remains?

The PRESIDING OFFICER. Three minutes.

FOREIGN OIL

Mr. NELSON of Florida. Madam President, I wish to follow the comments of the Senator from North Dakota about jobs going overseas and point out another vulnerability we have as a result of dependence overseas, and that is our dependence on foreign oil.

Today, we are importing over half of our daily consumption of oil. That is moving toward 60 percent of our daily consumption of oil that is coming from foreign shores. As a result, not only does that put us in a precarious economic position, but it puts us in a precarious defense position. Look at the difference in how we would be able to operate in the Middle East, in the Persian Gulf region, if we did not have the delivery of that oil. Look at the potential strike of a terrorist taking down a supertanker in the 19-mile-wide Strait of Hormuz and what that would do to the world economy if that oil could not flow out to the industrialized world. Yet what do we do about an energy policy here?

The Senator from North Dakota and I tried to do a simple little thing such as get increased mileage for SUVs phased in over the next decade, and we only got some votes—in the thirties

out of 100 Senators—to do that. When we try to look down the road at alternative ways, where is most of our energy consumed? It is consumed in the transportation sector. In transportation, where is most of our energy consumed in this country? It is in our personal vehicles. Today, we have vehicles made by Honda and Toyota that are getting in excess of 50 miles per gallon; they are called hybrid vehicles. It is a computer that runs between an electric motor and a gasoline engine, and they get over 50 miles per gallon. They cannot make enough of these for the demand of the American consumer. Yet we do not have a lot of these hybrid cars that are offered to the public.

What are we doing for the future? We could wean ourselves from dependence on foreign oil if we started a crash course to develop a hydrogen engine that was cheap enough and efficient enough for the American people. Years ago, in the early sixties, when this Nation made up its mind, after the President declared we were going to develop the technology and the American ingenuity to go to the Moon and return safely within that decade, don't you think that with that kind of perseverance and will, we could have ended up with an engine that would have been an alternative to oil and we would have started to wean ourselves from our dependence on this foreign oil that leaves this country all the more vulnerable defensewise?

Indeed, we could, but it takes leadership. It takes the will of the American people to say there is going to be a different way.

I have discussed this issue in terms of defense. I have discussed this issue in terms of economic vitality as well as defensewise, and certainly environmentally it would make a significant difference as well.

SENATOR BOB GRAHAM

Mr. NELSON of Florida. Madam President, in the minute I have remaining, I wish to say that, of course, the junior Senator from Florida was sad to hear the announcement of the senior Senator from Florida announcing his retirement.

Senator BOB GRAHAM is one of the most distinguished public servants who has ever come out of the State of Florida: a two-term Governor, a former State legislator, and now a many-term Senator who has given great leadership to our State.

I will have more to say about this later, but I am proud to stand to thank my friend for his years and years—a lifetime—of public service for the United States and the people of Florida.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I join with the now-junior Senator from Florida—a border State with Georgia—soon to be senior Senator, in commending the now-senior Senator from Florida, BOB GRAHAM. I, too, saw his announcement yesterday.

Senator GRAHAM and I have had the opportunity to work on many issues together since our States border each other. He has been a great public servant for this Senate, his State, and for America. He is one of those folks we greatly admire, and we will miss him.

I have great respect for Senator GRAHAM. I certainly respect his decision to go back to Florida and enjoy his family. He has a farm in Albany, GA, which is close to my home. We are going to get him over there more often because he and I enjoy bird hunting together. I, too, join with Senator NELSON in commending Senator GRAHAM.

JUDICIAL NOMINATIONS

Mr. CHAMBLISS. Madam President, I rise this morning to speak about a grave injustice that has befallen this Chamber, and that is the denial by a minority of Senators of the right to an up-or-down vote on four of the President's judicial nominees.

Last week, the Senate voted 54 to 43 to move forward with a vote on Judge Charles Pickering who now serves on the District Court for the Southern District of Mississippi and who was selected by the President as one of his nominees for the Fifth Circuit Court of Appeals. Fifty-four Senators—a majority, in other words—voted to allow Judge Pickering's nomination to proceed to a vote, and yet because of the way the Senate rules are presently being misapplied, a majority of Senators cannot even bring about a vote on the merits of a judge. That is wrong, and it is unconstitutional.

There is nothing in the Constitution that requires a supermajority—that is, three-fifths, two-thirds, or anything more than a simple majority of Senators—to give advice and consent. The Constitution spells out only five instances where a supermajority is required. Those five instances are: the ratification of a treaty, impeachment, expulsion of a Senator, the override of a Presidential veto, and adoption of a constitutional amendment. These five situations should occur infrequently, which is why the Framers of the Constitution made them difficult to achieve.

In contrast, the approval of Federal judges should occur frequently; I daresay 100 percent of the time, when you have qualified nominees. That is why there is no requirement in the Constitution for more than a simple majority to confirm these nominees. Advice and consent often requires debate, always requires deliberation, and always requires a decision. Each Senator should decide how to vote on a given nominee. Vote yes, vote no, but vote.

For the first time in our country's history, the filibuster is now being used by a minority of Senators to block the President's nominees to the Federal bench. By shirking their duty to make a decision on the merits of the President's nominees—Priscilla Owen, Bill Pryor, Caroline Kuhl, and now Charles Pickering—a minority of this Chamber keeps the Senate as a whole from performing its duties under the Constitution.

It is not as though the Senators who are blocking an up-or-down vote can object to the qualifications of these nominees. Let's go down the list. Let's start with Priscilla Owen who, like Judge Pickering, is nominated to the Fifth Circuit Court of Appeals, which hears appeals on Federal cases in Texas, Louisiana, and Mississippi.

Justice Owen graduated cum laude from Baylor Law School and then proceeded to earn the highest score on the Texas bar exam that year. She practiced law for 17 years before being elected to the Supreme Court of Texas in 1994. Justice Priscilla Owen was elected by the people of Texas, the second most populous State in this country, to its highest court. In her last reelection in the year 2000, she was reelected with 84 percent of the vote, along with the endorsement of every major newspaper in the State of Texas.

When the opponents of a fair vote on the merits cannot attack a nominee's qualifications, they come up with excuses: She is not in the ''mainstream of legal reasoning.'' Out of the mainstream? The people of Texas obviously don't think she is out of the mainstream. She received 84 percent of the vote in her reelection in 2000.

Next we have Caroline Kuhl who is one of President Bush's nominees to the Ninth Circuit Court of Appeals, which handles Federal appeals in many of the States out west. Caroline Kuhl has been a State trial judge in California since 1995. Judge Kuhl is another well-qualified nominee who is being denied an up-or-down vote on her nomination. But you don't have to take my word on her qualifications. The American Bar Association, the gold standard, has rated her as ''Well Qualified.'' Yet, despite her credentials, Judge Kuhl has also been branded as ''outside the mainstream.''

Then there is Bill Pryor, the attorney general for the State of Alabama, a dedicated public servant who has shown time and again that he can separate his personal beliefs from his professional duties. Again, ''outside of the mainstream.'' That is, sadly, what you will hear about Bill Pryor.

It doesn't matter that Thurbert Baker, the attorney general for my State of Georgia, Mr. Pryor's counterpart in my State, an elected Democrat, has said that Bill Pryor possesses the qualities and experience needed to serve the people of Georgia on the Eleventh Circuit.

Earlier this year, Attorney General Baker wrote a letter to Senators SHELBY and SESSIONS of Alabama to express his support for Bill Pryor. In support of Bill Pryor, Thurbert Baker wrote, and I quote:

Bill has distinguished himself time and again with the legal acumen that he brings to issues of national or regional concern as well as with his commitment to furthering the prospects of good and responsive government. Close quotation.

Across State lines and across party lines comes this endorsement of Bill Pryor. Again, you will hear the same, lame excuse: ''He's out of the mainstream.''

I mentioned earlier Judge Charles Pickering, who is nominated to the U.S. Circuit Court of Appeals for the Fifth Circuit. A few weeks ago, in our last Judiciary Committee hearing on Judge Pickering's nomination, Senator KENNEDY spoke of the important role the Fifth Circuit has played during the civil rights struggle, and he is absolutely correct in that. As a lawyer from Georgia who once was a proud member of the old Fifth Circuit bar, before that circuit was split in half in 1980 to create the Eleventh Circuit, I am well aware of the tremendous role the Fifth Circuit played in the civil rights struggle.

It is with a deep and abiding respect for the tradition of the Fifth Circuit that I support Judge Charles Pickering's nomination to that bench as one who deserves the honor of this service.

While Judge Pickering's critics have and will continue to unfairly label him as a racist and segregationist and, again, ''out of the mainstream,'' nothing could be further from the truth. Charles Pickering has worked to eliminate racial disparities in Mississippi. Judge Pickering has not just talked about improving race relations, he has backed up his words with a lifetime of action. For example, in Mississippi during the 1960s, he testified and helped prosecute Sam Bowers, the imperial wizard of the Klu Klux Klan, for the murder of a civil rights activist, Vernon Dahmer. He served as a leader in his community to integrate the public schools. In 1976, he hired James King as the first African-American political staffer for the Mississippi Republican Party. He represented an African-American man falsely accused of robbing a 16-year-old girl in 1981. He chaired the Race Relations Committee for Jones County, MS, in 1988. He helped establish a group to work with at-risk African-American youths in Laurel, MS, and he serves on the board of the Institute of Racial Reconciliation at the University of Mississippi.

Now, I grew up in the South, and for those who did not grow up in the South, to criticize this man, during a very difficult time in the history of our country, is not only unfair and unjust, it is almost un-American. This man made a commitment to ensure that race relations in Mississippi would improve every single day of his life, and unless one has walked in the shoes of somebody like Judge Pickering and looked race in the eye as he did, they cannot understand the principle, the integrity, and the character of this man.

What he did says a lot about Charles Pickering in and of itself, outside of the decisions he has made on the bench as a district court judge.

Judge Charles Pickering has tremendous bipartisan support from the people back home who know him best, including the top Democratic elected officials of Mississippi. This shows that he is well within the mainstream of legal thinking in Mississippi today and in the Fifth Circuit, just as Priscilla Owen's reelection by the people of Texas, with 84 percent of the vote, shows that she is in the mainstream in Texas and in the Fifth Circuit.

In September, Miguel Estrada withdrew his nomination after a minority of Senators prevented him from getting a vote for 28 months. This is a man who came to the United States from Honduras as a teenager, graduated from Columbia undergrad and then Harvard Law School, worked in the Justice Department for two administrations, including the Clinton administration, and was rated ''Well Qualified'' by the American Bar Association. So I guess we should not forget Miguel Estrada when we tally these filibusters. It is really not four, it is five. I suspect it is about to be six because we have another nomination that will likely come out of the Judiciary Committee on Thursday of this week, and that is the nomination of California Supreme Court Justice Janice Rogers Brown.

The American people will not continue to stand for this inaction, and they will not forget this obstructionist game playing. While we can still try to maintain the dignity and tradition of the Senate, I ask my colleagues to vote to give each of these qualified nominees an up-or-down vote. I ask my colleagues to make up their minds. Their constituents deserve it. Let us move forward on the merits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. On behalf of the Senator from Texas, I claim 9 minutes of the time that has been reserved for her and ask that the Chair notify me after 8 minutes.

The PRESIDING OFFICER. The Chair will do so.

SUPPORT OF AMERICAN TROOPS

Mr. BOND. Madam President, I rise this morning in support of the U.S. forces in Iraq and all our forces engaged in the war on terrorism. I am delighted and very pleased that the vast majority of this body voted overwhelmingly in support of the supplemental and our ongoing efforts to protect our troops to finish the job so we can bring our troops home.

Last week, I had the honor of going out to Walter Reed to visit a number of our wounded soldiers recently returned from Iraq. The spirit and enthusiasm of our service men and women serving in the war on terror is inspiring. It should remind all of us that our warfighters have the will to win as long as the American people have the will to win.

We cannot be defeated by Saddam Hussein or Osama bin Laden militarily. They are engaged in a psychological war to break our will. This past weekend brought news of the tragic loss of 16 soldiers in a Chinook helicopter mishap. No one in this body takes that current conflict lightly. Any loss of life is difficult to bear, particularly this tragic situation. Yet we must not forget the losses incurred in the United States on 9/11, and the loss of innocent lives in other terrorist attacks, from the marine barracks in Lebanon to the disco bombing in Bali.

The message we must send, if we are to avoid future catastrophic attacks, is that no price is too great for the freedoms we and other freedom-loving peoples now hold dear. The message we need to send our enemies is that we will not cut and run.

There are critics of U.S. foreign policy who now want us to pull out. They are just dead wrong. Do they think Saddam Hussein was not really evil, was not really a threat?

Last week, I talked a little bit about the unclassified report released by Dr. David Kay, the head of the Iraqi Survey Group, who has been over there looking. He has found a tremendous record of denial, deception, and destruction, which among other things is likely the reason we have not found the storehouses of weapons of mass destruction.

Dr. Kay believes that people have been distorting his record. I will submit for the record a copy of his November 1, 2003, piece in the Washington Post. It begins:

The October 26 front-page article ''Search in Iraq Fails to Find Nuclear Threat,'' is wildly off the mark.

I ask unanimous consent that this be printed in the RECORD after my remarks.

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

(See exhibit 1.)

Mr. BOND. I am going to quote from just pieces of his report, because apparently a lot of my colleagues who are saying it confirms that there were no weapons of mass destruction have not read the report.

Here is what Dr. Kay said:

With regard to biological warfare activities, which has been one of our two initial areas of focus, ISG teams are uncovering significant information, including research and development of BW-applicable organisms, the involvement of Iraqi intelligence service in possible BW activities, and deliberate concealment activities. All of this suggests Iraq, after 1996, further compartmentalized its program and focused on maintaining smaller, covert capabilities that could be activated quickly to surge the production of BW agents. Debriefings of IIS officials and site visits have begun to unravel a clandestine network of laboratories and facilities within the security service apparatus. This network was never declared to the U.N. and was previously unknown.

Again, he said two key former BW scientists confirmed that Iraq, under

the guise of legitimate activity, developed refinements of processes and products relevant to BW agents. Iraq concealed equipment and materials from U.N. inspectors when they returned in 2002. One noteworthy example is a collection of referenced strains that ought to have been declared to the U.N. Among them was a vial of live C. botulinum Okra B from which a biological agent can be produced.

ISG teams have developed multiple sources that indicate that Iraq explored the possibility of CW production in recent years, possibly as late as 2003.

Information obtained since OIF has identified several key areas in which Iraq may have engaged in proscribed or undeclared activities since 1991, including research on a possible VX stabilizer, research and development for CW-capable munitions, and procurement concealment of dual-use materials and equipment.

Officials assert Saddam would have resumed nuclear weapons development at some future point. Iraq did take steps to preserve some capability from the pre-1991 nuclear weapons program.

Detainees and cooperative sources indicate that beginning in 2000, Saddam ordered the development of ballistic missiles with ranges of at least 400 kilometers and up to 1,000 kilometers, and that measures to conceal these projects from UNMOVIC were initiated in late 2002, ahead of the arrival of inspectors.

Madam President, I ask unanimous consent that the Kay report be printed in the RECORD. It talks about several revelations of his efforts to obtain ballistic missiles and unmanned air vehicles.

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

What have we found and what have we not found in the first 3 months of our work?

We have discovered dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the United Nations during the inspections that began in late 2002. The discovery of these deliberate concealment efforts have come about both through the admissions of Iraqi scientists and officials concerning information they deliberately withheld and through physical evidence of equipment and activities that ISG has discovered that should have been declared to the UN. Let me just give you a few examples of these concealment efforts, some of which I will elaborate on later:

A clandestine network of laboratories and safehouses within the Iraqi Intelligence Service that contained equipment subject to UN monitoring and suitable for continuing CBW research.

A prison laboratory complex, possibly used in human testing of BW agents, that Iraqi officials working to prepare for UN inspections were explicitly ordered not to declare to the UN.

Reference strains of biological organisms concealed in a scientist's home, one of which can be used to produce biological weapons.

New research on BW-applicable agents, Brucella and Congo Crimean Hemorrhagic Fever (CCHF), and continuing work on ricin and aflatoxin were not declared to the UN.

Documents and equipment, hidden in scientists' homes, that would have been useful in resuming uranium enrichment by centrifuge and electromagnetic isotope separation (EMIS).

A line of UAVs not fully declared at an undeclared production facility and an admission that they had tested one of their declared UAVs out to a range of 500 km, 350 km beyond the permissible limit.

Continuing covert capability to manufacture fuel propellant useful only for prohibited SCUD variant missiles, a capability that was maintained at least until the end of 2001 and that cooperating Iraqi scientists have said they were told to conceal from the UN.

Plans and advanced design work for new long-range missiles with ranges up to at least 1000 km—well beyond the 150 km range limit imposed by the UN. Missiles of a 1000 km range would have allowed Iraq to threaten targets throughout the Middle East, including Ankara, Cairo, and Abu Dhabi.

Clandestine attempts between late 1999 and 2002 to obtain from North Korea technology related to 1,300 km range ballistic missiles—probably the No Dong—300 km range antiship cruise missiles, and other prohibited military equipment.

In addition to the discovery of extensive concealment efforts, we have been faced with a systematic sanitization of documentary and computer evidence in a wide range of offices, laboratories, and companies suspected of WMD work. The pattern of these efforts to erase evidence—hard drives destroyed, specific files burned, equipment cleaned of all traces of use—are ones of deliberate, rather than random, acts. For example,

On 10 July 2003 an ISG team exploited the Revolutionary Command Council (RCC) Headquarters in Baghdad. The basement of the main building contained an archive of documents situated on well-organized rows of metal shelving. The basement suffered no fire damage despite the total destruction of the upper floors from coalition air strikes. Upon arrival the exploitation team encountered small piles of ash where individual documents or binders of documents were intentionally destroyed. Computer hard drives had been deliberately destroyed. Computers would have had financial value to a random looter; their destruction, rather than removal for resale or reuse, indicates a targeted effort to prevent Coalition forces from gaining access to their contents.

All IIS laboratories visited by IIS exploitation teams have been clearly sanitized, including removal of much equipment, shredding and burning of documents, and even the removal of nameplates from office doors.

Although much of the deliberate destruction and sanitization of documents and records probably occurred during the height of OIF combat operations, indications of significant continuing destruction efforts have been found after the end of major combat operations, including entry in May 2003 of the locked gated vaults of the Ba'ath party intelligence building in Baghdad and highly selective destruction of computer hard drives and data storage equipment along with the burning of a small number of specific binders that appear to have contained financial and intelligence records, and in July 2003 a site exploitation team at the Abu Ghurayb Prison found one pile of the smoldering ashes from documents that was still warm to the touch.

I would now like to review our efforts in each of the major lines of enquiry that ISG has pursued during this initial phase of its work.

With regard to biological warfare activities, which has been one of our two initial areas of focus, ISG teams are uncovering significant information—including research and development of BW applicable organisms, the involvement of Iraqi Intelligence Service (IIS) in possible BW activities, and deliberate concealment activities. All of this suggests Iraq after 1996 further compartmentalized its program and focused on maintaining smaller, covert capabilities that could be activated quickly to surge the production of BW agents.

Debriefings of IIS officials and site visits have begun to unravel a clandestine network of laboratories and facilities within the security service apparatus. This network was never declared to the UN and was previously unknown. We are still working on determining the extent to which this network was tied to large-scale military efforts or BW terror weapons, but this clandestine capability was suitable for preserving BW expertise, BW capable facilities and continuing R&D—all key elements for maintaining a capability for resuming BW production. The IIS also played a prominent role in sponsoring students for overseas graduate studies in the biological sciences, according to Iraqi scientists and IIS sources, providing an important avenue for furthering BW-applicable research. This was the only area of graduate work that the IIS appeared to sponsor.

Discussions with Iraqi scientists uncovered agent R&D work that paired overt work with nonpathogenic organisms serving as surrogates for prohibited investigation with pathogenic agents. Examples include: B. Thurengiensis (Bt) with B. anthracis (anthrax), and medicinal plants with ricin. In a similar vein, two key former BW scientists, confirmed that Iraq under the guise of legitimate activity developed refinements of processes and products relevant to BW agents. The scientists discussed the development of improved, simplified fermentation and spray drying capabilities for the simulant Bt that would have been directly applicable to anthrax, and one scientist confirmed that the production line for Bt could be switched to produce anthrax in one week if the seed stock were available.

A very large body of information has been developed through debriefings, site visits, and exploitation of captured Iraqi documents that confirms that Iraq concealed equipment and materials from UN inspectors when they returned in 2002. One noteworthy example is a collection of reference strains that ought to have been declared to the UN. Among them was a vial of live C. botulinum Okra B. from which a biological agent can be produced. This discovery—hidden in the home of a BW scientist—illustrates the point I made earlier about the difficulty of locating small stocks of material that can be used to covertly surge production of deadly weapons. The scientist who concealed the vials containing this agent has identified a large cache of agents that he was asked, but refused, to conceal. ISG is actively searching for this second cache.

Additional information is beginning to corroborate reporting since 1996 about human testing activities using chemical and biological substances, but progress in this area is slow given the concern of knowledgeable Iraqi personnel about their being prosecuted for crimes against humanity.

We have not yet been able to corroborate the existence of a mobile BW production effort. Investigation into the origin of and intended use for the two trailers found in northern Iraq in April has yielded a number of explanations, including hydrogen, missile propellant, and BW production, but technical limitations would prevent any of these processes from being ideally suited to these trailers. That said, nothing we have discovered rules out their potential use in BW production.

We have made significant progress in identifying and locating individuals who were reportedly involved in a mobile program, and

we are confident that we will be able to get an answer to the questions as to whether there was a mobile program and whether the trailers that have been discovered so far were part of such a program.

Let me turn now to chemical weapons (CW). In searching for retained stocks of chemical munitions, ISG has had to contend with the almost unbelievable scale of Iraq's conventional weapons armory, which dwarfs by orders of magnitude the physical size of any conceivable stock of chemical weapons. For example, there are approximately 130 known Iraqi Ammunition Storage Points (ASP), many of which exceed 50 square miles in size and hold an estimated 600,000 tons of artillery shells, rockets, aviation bombs and other ordinance. Of these 130 ASPs, approximately 120 still remain unexamined. As Iraqi practice was not to mark much of their chemical ordinance and to store it at the same ASPs that held conventional rounds, the size of the required search effort is enormous.

While searching for retained weapons, ISG teams have developed multiple sources that indicate that Iraq explored the possibility of CW production in recent years, possibly as late as 2003. When Saddam had asked a senior military official in either 2001 or 2002 how long it would take to produce new chemical agent and weapons, he told ISG that after he consulted with CW experts in OMI he responded it would take six months for mustard. Another senior Iraqi chemical weapons expert in responding to a request in mid 2002 from Uday Husayn for CW for the Fedayeen Saddam estimated that it would take two months to produce mustard and two years for Sarin.

We are starting to survey parts of Iraq's chemical industry to determine if suitable equipment and bulk chemicals were available for chemical weapons production. We have been struck that two senior Iraqi officials volunteered that if they had been ordered to resume CW production Iraq would have been willing to use stainless steel systems that would be disposed of after a few production runs, in place of corrosive-resistant equipment which they did not have.

We continue to follow leads on Iraq's acquisition of equipment and bulk precursors suitable for a CW program. Several possibilities have emerged and are now being exploited. One example involves a foreign company with offices in Baghdad, that imported in the past into Iraq dual-use equipment and maintained active contracts through 2002. Its Baghdad office was found looted in August 2003, but we are pursuing other locations and associates of the company.

Information obtained since OIF has identified several key areas in which Iraq may have engaged in proscribed or undeclared activity since 1991, including research on a possible VX stabilizer, research and development for CW-capable munitions, and procurement/concealment of dual-use materials and equipment.

Multiple sources with varied access and reliability have told ISG that Iraq did not have a large, ongoing, centrally controlled CW program after 1991. Information found to date suggests that Iraq's large-scale capability to develop, produce, and fill new CW munitions was reduced—if not entirely destroyed—during Operations Desert Storm and Desert Fox, 13 years of UN sanctions and UN inspections. We are carefully examining dual-use, commercial chemical facilities to determine whether these were used or planned as alternative production sites.

We have also acquired information related to Iraq's CW doctrine and Iraq's war plans for OIF, but we have not yet found evidence to confirm pre-war reporting that Iraqi military units were prepared to use CW against Coalition forces. Our efforts to collect and exploit intelligence on Iraq's chemical weapons program have thus far yielded little reliable information on post-1991 CW stocks and CW agent production, although we continue to receive and follow leads related to such stocks. We have multiple reports that Iraq retained CW munitions made prior to 1991, possibly including mustard—a long-lasting chemical agent—but we have to date been unable to locate any such munitions.

With regard to Iraq's nuclear program, the testimony we have obtained from Iraqi scientists and senior government officials should clear up any doubts about whether Saddam still wanted to obtain nuclear weapons. They have told ISG that Saddam Husayn remained firmly committed to acquiring nuclear weapons. These officials assert that Saddam would have resumed nuclear weapons development at some future point. Some indicated a resumption after Iraq was free of sanctions. At least one senior Iraqi official believed that by 2000 Saddam had run out of patience with waiting for sanctions to end and wanted to restart the nuclear program. The Iraqi Atomic Energy Commission (IAEC) beginning around 1999 expanded its laboratories and research activities and increased its overall funding levels. This expansion may have been in initial preparation for renewed nuclear weapons research, although documentary evidence of this has not been found, and this is the subject of continuing investigation by ISG.

Starting around 2000, the senior Iraqi Atomic Energy Commission (IAEC) and high-level Ba'ath Party official Dr. Khalid Ibrahim Sa'id began several small and relatively unsophisticated research initiatives that could be applied to nuclear weapons development. These initiatives did not in-and-of themselves constitute a resumption of the nuclear weapons program, but could have been useful in developing a weapons-relevant science base for the long-term. We do not yet have information indicating whether a higher government authority directed Sa'id to initiate this research and, regretfully, Dr. Sa'id was killed on April 8th during the fall of Baghdad when the car he was riding in attempted to run a Coalition roadblock.

Despite evidence of Saddam's continued ambition to acquire nuclear weapons, to date we have not uncovered evidence that Iraq undertook significant post-1998 steps to actually build nuclear weapons or produce fissile material. However, Iraq did take steps to preserve some technological capability from the pre-1991 nuclear weapons program.

According to documents and testimony of Iraqi scientists, some of the key technical groups from the pre-1991 nuclear weapons program remained largely intact, performing work on nuclear-relevant dual-use technologies within the Military Industrial Commission (MIC). Some scientists from the pre-1991 nuclear weapons program have told ISG that they believed that these working groups were preserved in order to allow a reconstitution of the nuclear weapons program, but none of the scientists could produce official orders or plans to support their belief.

In some cases, these groups performed work which could help preserve the science base and core skills that would be needed for any future fissile material production or nuclear weapons development.

Several scientists—at the direction of senior Iraqi government officials—preserved documents and equipment from their pre–1991 nuclear weapon-related research and did not reveal this to the UN/IAEA. One Iraqi scientist recently stated in an interview with ISG that it was a ''common understanding'' among the scientists that material was being preserved for reconstitution of nuclear weapons-related work.

The ISG nuclear team has found indications that there was interest, beginning in 2002, in reconstituting a centrifuge enrichment program. Most of this activity centered on activities of Dr. Sa'id that caused some of his former colleagues in the pre-1991 nuclear program to suspect that Dr. Sa'id, at least, was considering a restart of the centrifuge program. We do not yet fully understand Iraqi intentions, and the evidence does not tie any activity directly to centrifuge research or development.

Exploitation of additional documents may shed light on the projects and program plans of Dr. Khalid Ibrahim Sa'id. There may be more projects to be discovered in research placed at universities and private companies. Iraqi interest in reconstitution of a uranium enrichment program needs to be better understood through the analysis of procurement records and additional interviews.

With regard to delivery systems, the ISG team has discovered sufficient evidence to date to conclude that the Iraqi regime was committed to delivery system improvements that would have, if OIF had not occurred, dramatically breached UN restrictions placed on Iraq after the 1991 Gulf War.

Detainees and co-operative sources indicate that beginning in 2000 Saddam ordered the development of ballistic missiles with ranges of at least 400km and up to 1000km and that measures to conceal these projects from UNMOVIC were initiated in late 2002, ahead of the arrival of inspectors. Work was also underway for a clustered engine liquid propellant missile, and it appears the work had progressed to a point to support initial prototype production of some parts and assemblies. According to a cooperating senior detainee, Saddam concluded that the proposals from both the liquid-propellant and solid-propellant missile design centers would take too long. For instance, the liquid-propellant missile project team forecast first delivery in six years. Saddam countered in 2000 that he wanted the missile designed and built inside of six months. On the other hand several sources contend that Saddam's range requirements for the missiles grew from 400–500km in 2000 to 600–1000km in 2002. ISG has gathered testimony from missile designers at Al Kindi State Company that Iraq has reinitiated work on converting SA–2 Surface-to-Air Missiles into ballistic missiles with a range goal of about 250km. Engineering work was reportedly underway in early 2003, despite the presence of UNMOVIC. This program was not declared to the UN. ISG is presently seeking additional confirmation and details on this project. A second cooperative source has stated that the program actually began in 2001, but that it received added impetus in the run-up to OIF, and that missiles from this project were transferred to a facility north of Baghdad. This source also provided documentary evidence of instructions to convert SA–2s into surface-to-surface missiles.

ISG has obtained testimony from both detainees and cooperative sources that indicate that proscribed-range solid-propellant missile design studies were initiated, or already underway, at the time when work on the clustered liquid-propellant missile designs began. The motor diameter was to be 800 to 1000mm, i.e. much greater than the 500-mm Ababil–100. The range goals cited for this system vary from over 400km up to 1000km, depending on the source and the payload mass.

A cooperative source, involved in the 2001–2002 deliberations on the long-range solid propellant project, provided ISG with a set of concept designs for a launcher designed to accommodate a 1m diameter by 9m length

missile. The limited detail in the drawings suggest there was some way to go before launcher fabrication. The source believes that these drawings would not have been requested until the missile progress was relatively advanced, normally beyond the design state. The drawings are in CAD format, with files dated 09/01/02.

While we have obtained enough information to make us confident that this design effort was underway, we are not yet confident which accounts of the timeline and project progress are accurate and are now seeking to better understand this program and its actual progress at the time of OIF.

One cooperative source has said that he suspected that the new large-diameter solid-propellant missile was intended to have a CW-filled warhead, but no detainee has admitted any actual knowledge of plans for unconventional warheads for any current or planned ballistic missile. The suspicion expressed by the one source about a CW warhead was based on his assessment of the unavailability of nuclear warheads and potential survivability problems of biological warfare agent in ballistic missile warheads. This is an area of great interest and we are seeking additional information on warhead designs.

While I have spoken so far of planned missile systems, one high-level detainee has recently claimed that Iraq retained a small quantity of Scud-variant missiles until at least 2001, although he subsequently recanted these claims, work continues to determine the truth. Two other sources contend that Iraq continued to produce until 2001 liquid fuel and oxidizer specific to Scud-type systems. The cooperating source claims that the al Tariq Factory was used to manufacture Scud oxidizer (IRFNA) from 1996 to 2001, and that nitrogen tetroxide, a chief ingredient of IRFNA was collected from a bleed port on the production equipment, was reserved, and then mixed with highly concentrated nitric acid plus an inhibitor to produce Scud oxidizer. Iraq never declared its pre-Gulf War capability to manufacture Scud IRFNA out of fear, multiple sources have stated, that the al Tariq Factory would be destroyed, leaving Baghdad without the ability to produce highly concentrated nitric acid, explosives and munitions. To date we have not discovered documentary or material evidence to corroborate these claims, but continued efforts are underway to clarify and confirm this information with additional Iraqi sources and to locate corroborating physical evidence. If we can confirm that the fuel was produced as late as 2001, and given that Scud fuel can only be used in Scud-variant missiles, we will have strong evidence that the missiles must have been retained until that date. This would, of course, be yet another example of a failure to declare prohibited activities to the UN.

Iraq was continuing to develop a variety of UAV platforms and maintained two UAV programs that were working in parallel, one at Ibn Fernas and one at al-Rashid Air Force Base. Ibn Fernas worked on the development of smaller, more traditional types of UAVs in addition to the conversion of manned aircraft into UAVs. This program was not declared to the UN until the 2002 CAFCD in which Iraq declared the RPV–20, RPV–30 and Pigeon RPV systems to the UN. All these systems had declared ranges of less than 150km. Several Iraqi officials stated that the RPV–20 flew over 500km on autopilot in 2002, contradicting Iraq's declaration on the system's range. The al-Rashid group was developing a competing line of UAVs. This program was never fully declared to the UN and is the subject of on-going work by ISG. Additional work is also focusing on the payloads and intended use for these UAVs. Surveillance and use as decoys are uses mentioned by some of those interviewed. Given Iraq's interest before the Gulf War in attempting to convert a MIG–21 into an unmanned aerial vehicle to carry spray tanks capable of dispensing chemical or biological agents, attention is being paid to whether any of the newer generation of UAVs were intended to have a similar purpose. This remains an open question.

ISG has discovered evidence of two primary cruise missile programs. The first appears to have been successfully implemented, whereas the second had not yet reached maturity at the time of OIF.

The first involved upgrades to the HY–2 coastal-defense cruise missile. ISG has developed multiple sources of testimony, which is corroborated in part by a captured document, that Iraq undertook a program aimed at increasing the HY–2's range and permitting its use as a land-attack missile. These efforts extended the HY–2's range from its original 100km to 150–180km. Ten modified missiles were delivered to the military prior to OIF and two of these were fired from Umm Qasr during OIF—one was shot down and one hit Kuwait. The second program, called the Jenin, was a much more ambitious effort to convert the HY–2 into a 1000km range land-attack cruise missile. The Jenin concept was presented to Saddam on 23 November 2001 and received what cooperative sources called an ''unusually quick response'' in little more than a week. The essence of the concept was to take an HY–2, strip it of its liquid rocket engine, and put in its place a turbine engine from a Russian helicopter—the TV–2–117 or TV3–117 from a Mi–8 or Mi–17 helicopter. To prevent discovery by the UN, Iraq halted engine development and testing and disassembled the test stand in late 2002 before the design criteria had been met.

In addition to the activities detailed here on Iraq's attempts to develop delivery systems beyond the permitted UN 150km, ISG has also developed information on Iraqi attempts to purchase proscribed missiles and missile technology. Documents found by ISG describe a high level dialogue between Iraq and North Korea that began in December 1999 and included an October 2000 meeting in Baghdad. These documents indicate Iraqi interest in the transfer of technology for surface-to-surface missiles with a range of 1300km (probably No Dong) and land-to-sea missiles with a range of 300km. The document quotes the North Koreans as understanding the limitations imposed by the UN, but being prepared ''to cooperate with Iraq on the items it specified''. At the time of OIF, these discussions had not led to any missiles being transferred to Iraq. A high level cooperating source has reported that in late 2002 at Saddam's behest a delegation of Iraqi officials was sent to meet with foreign export companies, including one that dealt with missiles. Iraq was interested in buying an advanced ballistic missile with 270km and 500km ranges.

The ISG has also identified a large volume of material and testimony by cooperating Iraq officials on Iraq's effort to illicitly procure parts and foreign assistance for its missile program. These include:

Significant level of assistance from a foreign company and its network of affiliates in supplying and supporting the development of production capabilities for solid rocket propellant and dual-use chemicals.

Entities from another foreign country were involved in supplying guidance and control systems for use in the Al-Fat'h (Ababil–100). The contract was incomplete by the time of OIF due to technical problems with the few systems delivered and a financial dispute.

A group of foreign experts operating in a private capacity were helping to develop Iraq's liquid propellant ballistic missile RDT&E and production infrastructure. They worked in Baghdad for about three months in late 1998 and subsequently continued work on the project from abroad. An actual contract valued at $10 million for machinery and equipment was signed in June 2001, initially for 18 months, but later extended. This cooperation continued right up until the war.

A different group of foreign experts traveled to Iraq in 1999 to conduct a technical review that resulted in what became the Al Samoud 2 design, and a contract was signed in 2001 for the provision of rigs, fixtures and control equipment for the redesigned missile.

Detainees and cooperative sources have described the role of a foreign expert in negotiations on the development of Iraq's liquid and solid propellant production infrastructure. This could have had applications in existing and planned longer range systems, although it is reported that nothing had actually been implemented before OIF.

Uncertainty remains about the full extent of foreign assistance to Iraq's planned expansion of its missile systems and work is continuing to gain a full resolution of this issue. However, there is little doubt from the evidence already gathered that there was substantial illegal procurement for all aspects of the missile programs.

I have covered a lot of ground today, much of it highly technical. Although we are resisting drawing conclusions in this first interim report, a number of things have become clearer already as a result of our investigation, among them:

1. Saddam, at least as judged by those scientists and other insiders who worked in his military-industrial programs, had not given up his aspirations and intentions to continue to acquire weapons of mass destruction. Even those senior officials we have interviewed who claim no direct knowledge of any on-going prohibited activities readily acknowledge that Saddam intended to resume these programs whenever the external restrictions were removed. Several of these officials acknowledge receiving inquiries since 2000 from Saddam or his sons about how long it would take to either restart CW production or make available chemical weapons.

2. In the delivery systems area there were already well advanced, but undeclared, on-going activities that, if OIF had not intervened, would have resulted in the production of missiles with ranges at least up to 1000 km, well in excess of the UN permitted range of 150 km. These missile activities were supported by a serious clandestine procurement program about which we have much still to learn.

3. In the chemical and biological weapons area we have confidence that there were at a minimum clandestine on-going research and development activities that were embedded in the Iraqi Intelligence Service. While we have much yet to learn about the exact work programs and capabilities of these activities, it is already apparent that these undeclared activities would have at a minimum facilitated chemical and biological weapons activities and provided a technically trained cadre.

Let me conclude by returning to something I began with today. We face a unique but challenging opportunity in our efforts to unravel the exact status of Iraq's WMD program. The good news is that we do not have to rely for the first time in over a decade on the incomplete, and often false, data that Iraq supplied the UN/IAEA;

Data collected by UN inspectors operating with the severe constraints that Iraqi security and deception actions imposed;

Information supplied by defectors, some of whom certainly fabricated much that they

supplied and perhaps were under the direct control of the IIS;

Data collected by national technical collections systems with their own limitations.

The bad news is that we have to do this under conditions that ensure that our work will take time and impose serious physical dangers on those who are asked to carry it out. Why should we take the time and run the risk to ensure that our conclusions reflect the truth to the maximum extent that is possible given the conditions in post-conflict Iraq? For those of us that are carrying out this search, there are two reasons that drive us to want to complete this effort.

First, whatever we find will probably differ from pre-war intelligence. Empirical reality on the ground is, and has always been, different from intelligence judgments that must be made under serious constraints of time, distance and information. It is, however, only by understanding precisely what those difference are that the quality of future intelligence and investment decisions concerning future intelligence systems can be improved. Proliferation of weapons of mass destruction is such a continuing threat to global society that learning those lessons has a high imperative.

Second, we have found people, technical information and illicit procurement networks that if allowed to flow to other countries and regions could accelerate global proliferation. Even in the area of actual weapons there is no doubt that Iraq had at one time chemical and biological weapons. Even if there were only a remote possibility that these pre-1991 weapons still exist, we have an obligation to American troops who are now there and the Iraqi population to ensure that none of these remain to be used against them in the ongoing insurgency activity.

Mr. Chairman and Members I appreciate this opportunity to share with you the initial results of the first 3 months of the activities of the Iraqi Survey Group. I am certain that I speak for Major General Keith Dayton, who commands the Iraqi Survey Group, when I say how proud we are of the men and women from across the Government and from our Coalition partners, Australia and the United Kingdom, who have gone to Iraq and are carrying out this important mission.

Thank you.

Mr. BOND. We are engaged in a monumental fight against terrorism and tyranny on a global scale, one in which all freedom-loving people have a stake. Other free countries ought to realize this is a battle in which we all have a stake. The Middle East region has long been marked by instability and marred by war, the threat of war and torture, terrorism, and ruthless dictators. Saddam Hussein was at the heart of it. On September 11 we lost close to 3,000 citizens when foreign terrorists attacked innocent civilians. It is a miracle we did not lose more. But we are now fighting that battle against terrorism in Baghdad, not in Boston or Boise or Baldwin, MO.

As I said earlier, some argue that Saddam has not been linked to terrorism. Well, what David Kay has already described puts the lie to that. Also, tell that to the thousands of Israeli families who have lost innocent relatives at the hands of Hamas suicide bombers whose families received $25,000 from the Iraqi dictator for each successful attack on innocent men, women, and children.

Today, on the good-news side, there are close to 100,000 Iraqis who are assuming control of essential civil responsibilities such as border police, civil defense, police facilities protection, and as soldiers. With each passing day, more and more Iraqis are taking the lead in security and in protecting Iraq. Over 85 percent of Iraq is relatively stable, with the exception of the troubled Sunni Triangle.

It is no surprise the Sunni Baathists are putting up the most resistance, for they have the most to lose. We have seen recently declassified reports of the Iraqi-sponsored torture, which are too disturbing even to watch. We found mass graves. We know Saddam conducted mass chemical attacks against his own people and launched chemical attacks against Iran.

I believe the President was correct when he said we must take on the war on terrorism, which would take years, not months. This is a global conflict against terrorism. The will of the American people is being tested. We cannot flinch. If we do not pursue terrorists where they live now, then we will continue to invite more attacks any time U.S. interests collide with the interests of terrorists.

EXHIBIT 1

The Oct. 26 front-page article ''Search in Iraq Fails to Find Nuclear Threat'' is wildly off the mark. Your reporter, Barton Gellman, bases much of his analysis on what he says was told to him by an Australian brigadier, Stephen D. Meekin. Gellman describes Meekin as someone ''who commands the Joint Captured Materiel Exploitation Center, the largest of a half-dozen units that report to [David] Kay.''

Meekin does not report, nor has he ever reported, to me in any individual capacity or as commander of the exploitation center. The work of the center did not form a part of my first interim report, which was delivered last month, nor do I direct what Meekin's organization does. The center's mission has never involved weapons of mass destruction, nor does it have any WMD expertise.

Gellman's description of information provided by Mahdi Obeidi, chief of Iraq's pre-1991 centrifuge program, relies on an unnamed ''U.S. official'' who, by the reporter's own admission, read only one reporting cable. How Gellman's source was able to describe reporting that covered four months is a mystery to me. Furthermore, the source mischaracterized our views on the reliability of Obeidi's information.

With regard to Obeidi's move to the United States, Gellman writes, ''By summer's end, under unknown circumstances, Obeidi received permission to bring his family to an East Coast suburb in the United States.'' The reader is left with the impression that this move involved something manipulative or sinister. The ''unknown circumstances'' are called Public Law 110. This mechanism was created during the Cold War to give the director of central intelligence the authority to resettle those who help provide valuable intelligence information. Nothing unusual or mysterious here.

When the article moves to describe the actual work of the nuclear team, Gellman states that ''frustrated members of the nuclear search team by late spring began calling themselves the 'book of the month club.' ''But he fails to note that this was before the establishment of the Iraq Survey Group. In fact, the team's frustration with the pace of the work is what led President Bush to shift the responsibility for the WMD search to the director of central intelligence and to send me to Baghdad.

One would believe from what Gellman writes that I have sent home the two leaders of my nuclear team, William Domke and Jeffrey Bedell, and abandoned all attempts to determine the state of Iraq's nuclear activities. Wrong again, Domke's assignment had been twice extended well beyond what the Department of Energy had agreed to. He and Bedell were replaced with a much larger contingent of experts from DOE's National Labs.

Finally, with regard to the aluminum tubes, the tubes were certainly being imported and were being used for rockets. The question that continues to occupy us is whether similar tubes, with higher specifications, had other uses, specifically in nuclear centrifuges. Why anyone would think that we should want to confiscate the thousands of aluminum tubes of the lower specification is unclear. Our investigation is focused on whether a nuclear centrifuge program was either underway or in the planning stages, what design and components were being contemplated or used in such a program if it existed and the reason for the constant raising of the specifications of the tubes the Iraqis were importing clandestinely.

We have much work left to do before any conclusions can be reached on the state of possible Iraqi nuclear weapons program efforts. Your story gives the false impression that conclusions can already be drawn.

When Barton Gellman interviewed me last month I stressed on a number of occasions that my remarks related to Iraqi's conventional weapons program. I am responsible for aspects of that program as the commander of the coalition Joint Captured Materiel Exploitation Center. I did not provide assessments or views on Iraq's nuclear program or the status of investigations being conducted by the Iraq Survey Group.

On the issue of Iraq's use of aluminum tubes, I did confirm, in response to a question by Gellman, that aluminum tubes form the body of Iraqi 81mm battlefield rockets and that my teams had recovered some of these rockets for technical examination. Further, I stated that the empty tubes were innocuous in view of the large quantities of lethal Iraqi conventional weapons such as small arms, explosive ordnance and manportable air defense systems in this country. I did not make any judgment on the suitability of the 81mm aluminum tubes as components in a nuclear program.

In discussing the disbanding of the Joint Captured Materiel Exploitation Center, I told your reporter that the center's work was largely complete, and I made clear that its role was in the realm of Iraq's conventional weapons and technologies.

Gellman attributed to me comments about the effect of U.N.-imposed sanctions. Again, I referred to Iraqi efforts to acquire conventional military equipment. I made no assessment about the effect of U.N. sanctions on Iraq's nuclear program.

Mr. CRAIG. Madam President, I will claim no more than 5 minutes of the time of the Senator from Texas.

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

HEALTHY FORESTS CONFERENCE

Mr. CRAIG. I come to the floor this morning a bit frustrated and maybe with a good reason to be angry at some of our colleagues for what now appears

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 recrafted 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 secret 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 refurnishing 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 day 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 identity 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 consumers 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, of 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 rejecting 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 legislation 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 go 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 represents 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 county. 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 being 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 id 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 significant 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 its 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 Commission 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 Californlia 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 compile 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 personally 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.

Secondly, identity theft has emerged as a national epidemic in the last 7 years. Both the chairman and the ranking member of this committee have done their utmost and been very receptive to trying to enact legislation to prevent identity theft.

The Federal Trade Commission recently published a study that suggested 9.9 million Americans are victims of identity theft every year. The cost is $50 billion annually. Studies have shown that much identity theft occurs in the workplace. So increased affiliate sharing will likely facilitate this crime. Potentially, thousands of employees in affiliated businesses will have increased access to the currency of identity theft, and that is Social Security numbers and other sensitive identifying information, such as date and place of birth and mother's maiden name.

In her testimony before the Senate Banking Committee, Vermont Assistant Attorney General Julie Brill directly linked affiliate sharing to identity theft. Here is what she said:

> Many identity fraud cases stem from the perpetrator's purchase of consumers' personal information from commercial data brokers. Financial institutions' information sharing practices contribute to the risk of identity theft by greatly expanding the opportunity for thieves to obtain access to sensitive personal information.

So that is what we are doing here. Now, this is a prosecutor who should know. This is what she deals with. So why broaden the scope and opportunity for identity theft to take place?

Assistant Attorney General Brill also cited work by researchers at Michigan State University who studied 1,000 cases of identity theft and found that 50 percent of the victims traced the theft of information to an employee of a company compiling personal data on individuals.

Third, it is an open question whether affiliate sharing has offered any price or service advantage to customers. According to an article by Janet Gertz in the San Diego Law Journal, there is some evidence that businesses use affiliate sharing to extract concessions from consumers. Let me quote her:

> By profiling consumers, financial institutions can predict an individual's demand and price point sensitivity and thus can alter the balance of power in their price and value negotiations with that individual. Statistics indicate that the power shift facilitated by predictive profiling has proven highly profitable for the financial services industry. However, there is little evidence that any of these profits or cost savings are being passed on to consumers.

Just recently, for example, the Federal Reserve issued a report on financial service fees and services showing that fees at larger institutions are generally increasing and services are decreasing.

So we are letting exist this whole area where businesses buy other businesses just to share consumers' data? And the consumer has no control over their personal data. That is wrong.

My colleagues may hear during the debate on this amendment that the affiliate sharing problem is addressed because S. 1753 allows consumers to opt out of certain marketing solicitations by affiliates.

I want to go into this because this has been widely circulated by the financial institutions. Senator BOXER and I were just questioned about it at a press conference we held. In truth, these restrictions that they say are there are grossly inadequate, and they barely scratch the surface of the problem.

Let me describe some of the uses of affiliate sharing that the bill does permit. First, internal credit reports: The bill permits companies to use transaction and experience information to create internal credit reports.

Martin Wong, general counsel of Citigroup's Global Consumer Group, testified before the Senate Banking Committee in June that:

> Citigroup is able to use the credit information and transaction histories that we collect from affiliates to create internal credit scores and models that help determine a customer's eligibility for credit.

In other words, a bank can use transaction and experience from its affiliates to determine if it is going to charge a higher interest rate to certain credit card customers and give perks to others or to deny a credit applicant a credit card.

In contrast to a traditional credit card report, a consumer has no right of access to transaction and experience information used by a bank to deny him or her credit. Nor would a consumer have any right to correct any errors made in compilation of these internal credit reports. So one can have their credit changed even without their knowledge. It can be wrong, and the person would not know about it. It all happens in this secret world of affiliate sharing.

Similarly, a health insurer could deny a customer a health insurance or life insurance policy based on transaction and experience information. For example, a life insurer might reject an insurance applicant because of evidence in his card or check transaction record that he visits liquor stores frequently, buys products at stores selling mountain climbing equipment and therefore is at risk of injury, or has purchased a gun.

These are just indications. These are just areas. But you can see where this thing is going. Essentially, consumers can be denied products or services and they will have no ability to determine why the denial occurred.

The bill would permit prospective or current employers, without an individual's knowledge or consent, to mine information about the individual from other affiliates with whom the individual does business. This could be used for hiring decisions, disciplinary action, job evaluations, or other employment purposes. Again, all of this goes on simply because you bank with a given bank. You think all these things are protected and in fact they are data-mining checks, where you go, who you are paying. This information is going out to a whole host of other companies, sometimes thousands of companies.

Some affiliates are offshore and American consumer protection laws do not apply to those countries. As United States companies continue to acquire affiliates overseas, consumers may not even be able to depend on existing consumer protection laws to protect information that is shared with an affiliate.

Earlier this month, and many of us read about it, a woman in Pakistan, transcribing medical files for the University of California Medical Center in San Francisco, threatened to post patient medical records on the Internet unless she was paid more money. While we have strict laws governing medical files in the United States, these laws are virtually unenforceable overseas.

The Senate bill does not prevent affiliated companies from accumulating and sharing uncomplimentary information about customers, such as if they have filed for bankruptcy, do not pay their credit on time, or complain a lot. This information can be used to push unprofitable customers into a different tier of customer services. Example, where there are longer waits for a customer representative, or eliminate the customer altogether. All of this happens because of the ease with which this information can be shared among commonly held companies.

Let me give an example. Business Week magazine has reported that Sanwa Bank gives A's to its best customers, but those whose profiles show they will generate less revenues get C's from the bank. The bank tends to charge those earning C's more fees, and is more likely to put them on hold when they call in for service. This type of profiling certainly can occur in the context of affiliate sharing.

Even in the area of marketing, this bill is grossly inadequate. It purports to give consumers the right to opt out of the sharing of transaction and experience information for marketing, but there are loopholes. The institutions are going around the Hill today, pointing out they already do protect this.

Let me talk for a minute about the loopholes. The bill excludes companies from the opt-out if they have a preexisting business relationship with the consumer.

What is a preexisting business relationship? Your guess is as good as mine because the bill doesn't define it. Presumably, a bank could argue it has a preexisting relationship with a consumer if a consumer came into the bank 5 years ago to cash a check, or even just made an inquiry about an account. Additionally, if a consumer does exercise the opt-out for marketing, which is in the bill, the opt-out expires after 5 years. At that time, affiliates can then start marketing again to the customer.

I find it disturbing that the supporters of the bill want to permanently preempt States from enacting stronger affiliate-sharing laws for credit reporting purposes, but only think customers' preferences should be recognized for 5 years.

Last, but perhaps most fundamental, the Senate bill denies the consumer the ability to define the parameters of his or her relationship with a company, and this, I think, is really important. Under the current bill, when a consumer purchases a product from a megacorporation, the consumer automatically, without his or her choice or consent, makes his or her information available to hundreds of companies. Lawyers call this type of relationship, where one side has all the bargaining power, an adhesion contract. Some courts rule these types of contracts invalid because they do not reflect arm's-length negotiation and could result in unconscionable terms for the consumer.

Our amendment is a substitute to the affiliate-sharing language in S. 1753. Supporters of the underlying bill claim the Government needs a viable national standard to ensure the efficiency of our credit market. This amendment provides such a standard. It gives consumers all across the country—in Alabama, in Maryland, in Kentucky, in Colorado, in Washington—the opportunity to have some say, some choice in how their personal data is shared. With the privacy of Americans more at risk because of the latest technological developments and identity theft, with privacy invasions at its core becoming the fastest growing white-collar crime in the United States, we believe strong national standards are critical.

Our amendment reflects the terms of the California privacy law, which the California Bankers Association just a very short time ago called reasonable and workable, and are now lobbying against.

I read the letter of the author of the California bill, which I think irrefutably states the turnaround the financial institutions have done in this opt-out provision. Jim Bruner of the Securities Industry Association stated at the press conference announcing the agreement on California law on August 14, just a short time ago:

''While we would have preferred a national standard,'' [the California law] ''encompasses all aspects of the workability needed to ensure protection of consumers' privacy.''

And then they turned around and did a 180.

Jamie Clark of the California Bankers Association said at the same press conference that the banks:

''. . . have no objection to the measure passing'' and would tell its supporters to vote for the bill.

Clark added:

''We prefer a national standard so that you have a uniform operating environment.''

But they didn't tell anyone in California, which has just passed a new law which provides opt-out, that they could not live with the opt-out standard.

They did not come back here saying the law was sloppily drafted. They liked it then. When you do the law back here, all of a sudden it is sloppily drafted.

Diane Colborn of the Personal Insurance Federation called the California bill ''a balanced measure that will provide meaningful privacy protections to consumers while also addressing the workability concerns that our members and customers had.''

The California credit unions supported this legislation and still do. I thank them for their support.

This amendment offers businesses in California and around the country the chance to get a moderate, reasonable, uniform national standard on personal privacy.

Under the amendment, companies would be required to give consumers notice of their intent to share transactions and experience and other information with their affiliates. Consumers would then have the opportunity to opt out—to say, I don't want you to do it, or to do nothing at which point the information could be shared. The company would be notified and would give them, I hope, a choice of whether their most personal information is shared among affiliates.

This amendment would also allow closely related affiliates in the same line of business to share information with each other. Specifically, companies would not need to provide an opt-out choice if one, the affiliate is regulated by the same functional regulator—an example of that is institutions that regulate financial service institutions such as the Office of Thrift Supervision and the Office of the Comptroller of the Currency would be considered the same functional regulator; two, the affiliate engages in the same line of business. An example of that is the selling of securities, banking services, and insurance would all be considered independent lines of business; three, the affiliate shares a common brand identification; and four, the affiliate is a wholly owned subsidiary of the same company.

The amendment also has numerous other exceptions that were ironed out after 4 years of negotiation in California to meet the practical needs of business. The exceptions include the following: No. 1, information maintained in common databases. This is another false rumor that is being spread on this bill. This amendment allows employees of an affiliate to have access to information maintained in a common information system or database so long as the information is not accessed, disclosed, or used.

That is the key. It doesn't require new databases. It doesn't mess up their database. It just says you can't access it if the individual opts out.

This exception is necessary because we don't want to disadvantage companies that have streamlined operations by combining databases and other information technology resources. On the other hand, this amendment still permits consumers to have a choice over whether information in the database can be used for secondary purposes.

This amendment, as the Gramm-Leach-Bliley and California law, has an exception for transactional uses of information.

Information sharing ''necessary to affect, administer or enforce a transaction requested or authored by the consumer'' or ''with the consent or at the direction of the consumer'' is excluded from the opt-out.

Our amendment has exceptions for affiliate sharing of personal information that is necessary for companies to effectively manage their operations. For example, for security purposes, institutional risk control, and to respond to customer disputes or inquiries.

Proponents for unrestricted sharing of affiliate information argue that it is needed to solve identity theft. They correctly point out that companies can track unlawful purchases or suspicious activity by monitoring unusual account activity, change of address requests, and other suspicious behavior.

This amendment explicitly allows for affiliates to share information ''to protect against or prevent actual or potential fraud, identify theft,'' et cetera.

In addition, the amendment has exceptions relating to a business, a merger, a sale, a transfer; to comply with Federal, State, or local laws; for outsourcing functions with vendors such as data processing or billing; and, to identify or locate missing and abducted children, witnesses, criminals and fugitives, parties to lawsuits, parents delinquent in child support payments, organ and bone marrow donors, pension fund beneficiaries, and missing heirs, or to report known or suspected instance of elder or dependent adult financial abuses; and an exception is also carved out for the United States of America PATRIOT Act.

I deeply believe that without this opt-out the National Consumer Credit Reporting System Improvement Act would create a permanent and unworkable Federal standard that would set back the privacy of personal information and allow sensitive personal data to be moved through dozens, hundreds, and, in some cases, thousands of other companies.

This amendment is quite simple. It is about consumer choice.

I am puzzled at the ferocity with which the financial institutions and the banks are lobbying against this amendment. They serve people. That is what they are there to do—serve people. Shouldn't someone know if this information is being marketed within the loophole? Shouldn't someone have the opportunity to say, I don't want you to use my information? In fact, I think I am going to change banks, if they do this. Find a bank that won't do it. That would be my advice to everybody.

I think consumers should be given the opportunity to tell a bank they don't want their information shared with other companies. This is America. We should have that freedom. We should have that right. If you vote for this amendment, Americans will.

Do I have a few more minutes? If I could quickly set aside this amendment and send one other amendment to the desk, I will not speak to it.

I am happy to wait. I will yield the floor at this time and do it later.

Thank you very much.

Mr. MCCAIN. Mr. President, I don't mind waiting a few minutes if the Senator from California wishes to proceed.

Mrs. FEINSTEIN. No. That is all right.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona has the floor. The Senator from Arizona.

U.S.-RUSSIA RELATIONSHIP

Mr. MCCAIN. Mr. President, a creeping coup against the forces of democracy and market capitalism in Russia is threatening the foundation of the U.S.-Russia relationship and raising the specter of a new era of cold peace between Washington and Moscow. The new authoritarianism in Russia is more than a test of America's ability to defend universal values that have taken shallow root since the Soviet empire collapsed. It presents a fundamental challenge to American interests across Eurasia. The United States cannot enjoy a normal relationship, much less a partnership, with a country that increasingly appears to have more in common with its Soviet and czarist predecessors than with the modern state Vladimir Putin claims to aspire to build.

On October 25, masked Russian security agents from the FSB, the successor to the KGB, stormed Russian businessman Mikhail Khodorkovsky's private plane during a stop in Siberia. He now sits in prison awaiting trial, accused of tax evasion, fraud, forgery, and embezzlement. Russia's richest man, founder and chief executive of its most successful private company, a leader in incorporating Western principles of accounting and transparency into business practice, and a generous donor to charity, Khodorkovsky had committed what in the Kremlin's eyes is the worst crime of all: supporting the political opposition to President Putin. Such an alternative center of power could threaten the Kremlin's supreme political control.

Upon assuming power in 2000, President Putin announced a now-famous ultimatum to Russia's top business leaders, whose fortunes were made by acquiring control of Russian assets privatized at fire-sale prices in the 1990s. President Putin said to them: stay out of political life and keep your fortune, or risk it by engaging in political activity. Most of the oligarchs chose to remain quiet. Three did not. Business tycoons Boris Berezovsky and Vladimir Gusinsky were forced into exile as a result of their support for opposition political parties and free media. Mikhail Khodorkovsky actually attempted to exercise basic political freedoms guaranteed, in theory, for all Russians. He has been thrown into jail as a result.

Admittedly, Messrs. Gusinsky, Berezovsky, and Khodorkovsky may not provide to proponents of democracy and free markets in Russia the most laudable personal histories upon which to wage a resolute defense of our democratic principles. But failure to defend them would acknowledge exactly what the Kremlin cynically alleges: that they are being prosecuted because of the way they made their money. What has caused these three Russian tycoons to be singled out are their activities in support of opposition political parties and free media. In reality, a concerted campaign to clean up Russian politics and society would reach into every corner of the Kremlin and every boardroom in Russia, but that is not happening. For better or for worse, there is a consensus in Russian society that the past should remain in the past as Russia moves forward. If Russian business and government leaders are in fact going to be prosecuted for their conduct a decade ago, then perhaps the former KGB officer named Vladimir Putin who assisted Stasi leaders and Eric Honnecker in oppressing the German people should answer for his crimes.

Mikhail Khodorkovsky's arrest, like the politically motivated indictments of Berezovsky and Gusinsky, should be seen not as prosecution for financial dealings done a decade ago—which would implicate thousands of Russian businessmen and political figures—but as part of a larger contest between the forces of statist control and a liberal-oligarchic elite. Who wins will go a long way toward determining whether Russia reverts to the traditions of its czarist-imperial past or charts a new course as part of an integrating, liberal international order. The consequences of this struggle, for both the Russian people and the world, will be profound.

For the Russian people, President Putin's rule has been characterized by the dismantling of Russia's independent media, a fierce crackdown on the political opposition, and the prosecution of a bloody war against Chechnya's civilian population. The ascent of former KGB officers throughout Russia's ministries and in the Kremlin has enabled Putin to use the long arm of the state to crush internal dissent, silence opposing political voices, and subdue free media. During the first Chechen war, more Russians got their news from Vladimir Gusinsky's independent NTV than from state media. Today, there is almost no free media in Russia. Intimidation, coercion, assassination of journalists, and armed raids by the security services have put most independent media outlets out of business. Beatings and assassinations of journalists recall not the new Russia but the dark legacy of the Soviet past. Those independent media outlets that remain feel forced to practice the kind of self-censorship that characterized the Soviet Union. Today, most Russians who read newspapers or tune into television or radio hear only the voice of the Russian state—as they did under totalitarian rule.

In a land where financial support for opposition political parties comes largely from business, the arrest of Mikhail Khodorkovsky, like the indictments of Berezovsky and Gusinsky, sends a chillingly clear message to Russia's business community that their assets are safe only if they steer clear of politics. Putin himself made this same threat to the oligarchs in 2000; it is clear that his government is carrying it out, and that Khodorkovsky is the latest victim.

Political assassinations also demonstrate the risk of speaking out against state power. Earlier this year, State Duma deputy Sergei Yushenkov, who had been investigating potential connections between the 1999 Moscow apartment bombings and the start of the second Chechen war, was killed outside his Moscow apartment. State Duma deputy Yuri Shendoshokhtin, who had been looking into the role of the FSB in the Moscow bombings as well as a scandal surrounding the involvement of FSB officers in illegal trade, was also killed in mysterious circumstances. Both crimes remain unsolved. In today's Russia—as in Soviet Russia, as in czarist Russia—the state uses its power to suppress political dissent. The arrest of Mikhail Khodorkovsky fits in a long tradition of political arrest and persecution stretching across the vast dictatorial tundra of Russian history.

Under President Putin, Russian citizens in Chechnya have suffered crimes against humanity at the hands of Russian military forces. It was during Mr. Putin's tenure as Prime Minister in 1999 that he launched the Second Chechen War following the Moscow apartment bombings. There remain credible allegations that Russia's FSB had a hand in carrying out these attacks. Mr. Putin ascended to the presidency in 2000 by pointing a finger at the Chechens for committing these crimes, launching a new military campaign in Chechnya, and riding a frenzy of public anger into office. Since then, between 10 and 20,000 Chechen civilians have been killed and hundreds of thousands displaced by Russian security forces. At Putin's direction, the Kremlin recently stage-managed an ''election'' in Chechnya that put Moscow's hand-picked candidate in power. The principal voters were Russian conscripts forced to serve in Chechnya. Moscow has made no effort to address the political grievances of a population increasingly radicalized by the brutality of Russian rule. Yes, there are Chechen terrorists, but there are many Chechens who took up arms only after the atrocities committed by Russian forces serving first under Boris Yeltsin's and then Putin's orders.

In short, Mr. President, I am worried that what we are seeing in Mr. Putin's government is a continuation of 400 years of autocratic state control, and repression. Since the end of the Cold War, many Western observers have optimistically argued that the way Russia is governed has fundamentally changed. Sadly, this appears not to be true. Whether ruled by the czars, Stalin, Brezhnev, or Putin, the Russian state has remained supreme within Russian society. It seeks fundamentally to control society, not to answer to it. The people serve the government,

not the reverse. This is not the behavior of a modern European nation; it is a form of unenlightened despotism cloaked in the mantle of international respectability, which Russia derives principally from its relations with other great powers—particularly the United States.

The ascent of former KGB officers to positions of power throughout the structures of the Russian state underscores this trend. Apparently KGB veterans Igor Sechin and General Viktor Ivanov, both deputy chiefs of presidential administration in the Kremlin, masterminded the assault on Mr. Khodorkovsky. I would like to congratulate the KGB for arresting one of the most pro-Western business figures in Russia today—someone whose personal and corporate behavior, through charitable giving and adopting Western standards of business, have brought more credit to Russia in the last three years than anything the Russian government has done. Meanwhile, the FSB has been unable to solve the murder of leading independent journalists. It has failed to bring to justice any suspects in the murder of democratic politicians. It has not been able to identify a single case of corruption inside the Russian government. Not a single Russian has been held to account for committing crimes against humanity in the Soviet Gulag. The FSB can't do any of that—but it can arrest Mikhail Khodorkovsky. What brave men they must be to kick down the doors of a private airplane and arrest an unarmed man.

The FSB's dominance in the Russian Government has renewed the specter of the imperial temptation that has guided Russia's external relations for centuries. For too many of Russia's neighbors, it is like the old Beatles song: ''Back in the USSR.'' Under President Putin, Russia has refused to comply with the terms of the Treaty on Conventional Forces in Europe. Russian troops occupy parts of Georgia and Moldova. Russia has effectively annexed the Georgian province of Abkhazia, which it has occupied for a decade. Moscow has supported attempts to overthrow neighboring governments that appear too independent of Russia's embrace. Russian naval forces recently attempted to assert control in the channel connecting the Sea of Azov and the Black Sea from Ukraine. Russian secret services are credibly accused of meddling in elections in Azerbaijan and Georgia. Russian agents are working to bring Ukraine further into Moscow's orbit. Russian support sustains Europe's last dictatorship in Belarus. And Moscow has attempted to cynically manipulate Latvia's Russian minority and enforced its stranglehold on energy supplies into Latvia in order to squeeze the democratic, pro-American government in Riga.

Under President Putin, Russia has pursued a policy in its ''near abroad'' that would create an empire of influence and submission, if not outright control. On October 9, Russian Defense Minister Sergei Ivanov declared that Russia reserves the right to intervene militarily within the Commonwealth of Independent States in order to settle disputes that cannot be resolved through negotiation. At the same press conference, President Putin declared that the pipelines in Central Asia and the Caucasus carrying oil and natural gas to the West were built by the Soviet Union, and said it is Russia's prerogative to maintain them in order to protect its national interests, ''even those parts of the system that are beyond Russia's borders.'' In the runup to the war in Afghanistan, President Putin was given great credit for ''allowing'' the United States to use the military facilities and airspace of sovereign countries in Central Asia. But Russia has no more right to speak for these countries than we do. The Putin Doctrine, asserting a right to imperial intervention in Russia's ''near-abroad,'' coupled with the ascendancy of the FSB, recalls a discredited Russian imperial past whose victims number in the millions. Russia's assertion of political control over its neighbors speaks not to a modern vision of Russian reform and renewal, but appears to reflect a czarist impulse to dominate neighboring populations. It is the international dimension of rising state control at home.

The dramatic deterioration of democracy in Russia calls into question the fundamental premises of our Russia policy since 1991. American leaders must adapt U.S. policy to the realities of a Russian Government that may be trending towards neo-imperialism abroad and authoritarian control at home. It is time to face unpleasant facts about Russia. Russia is moving in the wrong direction—rapidly. While the United States undertakes a necessary and comprehensive review of our policy, I believe Russia's privileged access to critical Euro-Atlantic institutions should be suspended. This access was obtained with the understanding that President Putin was committed to free markets, the rule of law, pluralist democracy, journalistic freedom, and the lawful constraint of the intelligence and security services. These now appear to be false premises.

The Russian Government is not behaving in a manner that qualifies it to belong in the club of industrialized democracies. The United States is hosting the next G–8 Summit at King Island, Georgia, in June 2004. Russia has been invited to participate and has been working its way in, but President Putin's conduct at home and abroad has worked Russia out. Putin's Russia should have no place at the next G–8 Summit.

Congress should not consider the repeal of the Jackson-Vanik amendment for Russia. It would be incomprehensible to consider easing a law created in response to Soviet repression when the Russian Government is continuing a similar pattern of behavior. I will oppose any effort to repeal Jackson-Vanik as long as Russia is moving in the wrong direction.

To any American businesses contemplating investment in or trade with Russia, I would simply say that this is not a place where the rule of law and Western codes of conduct prevail. You invest at your peril. Many Members of Congress have heard from U.S. businessmen who have lost money in Russia due to the absence of the rule of law. The American business community should consider itself warned: the Kremlin's recent behavior is a clear signal that your investments are not safe. I call on my own Government, including the Export-Import Bank and the Overseas Private Investment Corporation, to cease all guarantees of investment in Russia due to the unacceptable risk of state interference and expropriation, as demonstrated by the Russian Government's actions. American taxpayer dollars should not be used to subsidize U.S. investment in Russia as long as the rule of the FSB prevails over the rule of law.

Clearly, in personal meetings, the President of Russia attempts to reassure the President of the United States that he is a fellow democrat. An accumulation of evidence forces me to draw the opposite conclusion. I hope I am wrong, but I am increasingly concerned that in Mr. Putin's soul is the continuity of 400 years of Russian oppression. Under President Putin's leadership, Russia looks to the West for prosperity, technology, and modernity, but seems to be striving in every way to keep the values of the West out of Russia. Far from having a vision for Russia in which democracy and freedom and the rule of law thrive, I fear President Putin may have a vision for Russia in which the capricious power of the police at home, and the menacing weight of subversion and intimidation abroad, guide the state. Administration policy must recognize the cold realities of Putin's Russia.

The responsibilities that follow from this are clear: it is time for a hard-headed and dispassionate reconsideration of American policy in response to the resurgence of authoritarian forces in Moscow. It is time to send a signal to President Putin's government that undemocratic behavior will exclude Russia from the company of Western democracies. The wholesale suppression of free media and political opposition cannot be ignored. American policy must reflect the sobering conclusion that a Russian Government which does not share our most basic values cannot be a friend or partner and risks defining itself, through its own behavior, as an adversary.

Mr. President, I thank the forbearance of my colleagues. I yield back the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the Senator from Illinois is recognized for 15 minutes.

Mr. DURBIN. Thank you, Mr. President. I appreciate the indulgence of Chairman SHELBY and Senator SARBANES for this opportunity.

Mr. SARBANES. Will the Senator yield to me for just 30 seconds?

Mr. DURBIN. Yes.

Mr. SARBANES. Mr. President, we are having two major statements on unrelated issues. We have an amendment pending. We are trying to work through these amendments. We think there is an opportunity to dispatch them in good order. So I certainly encourage people who want to speak on the pending Feinstein amendment to come to the floor so they can be heard and we can complete that debate and then move to a vote on or in relationship to that amendment and then follow on with the other amendments and move this bill toward completion.

I know there is no one in the Chamber wishing to speak now, and we certainly think the Senator from Illinois ought to be able to offer his statement, so this is not directed at him. I want to certainly assure him of that. But as we proceed, thereafter, if we could follow along, I think it would be very helpful.

The PRESIDING OFFICER. The Senator from Illinois.

HONORING AND PROTECTING OUR ARMED FORCES

Mr. DURBIN. Mr. President, America's burden in Iraq grew heavier over the last 7 days. In that period of time, 27 American servicemen were killed and 35 wounded. We were awakened to newspaper headlines on Monday morning of: ''U.S. Copter Hit, With 16 Dead.''

On Sunday, I received the sad news that the National Guard helicopter which was downed was attached to the 82nd Airborne Division and piloted by 1LT Brian Slavenas from Genoa, IL. It was shot down by a surface-to-air missile near Falluja in Iraq.

Press accounts report that the missile was likely a heat-seeking missile because it hit the engine, but, thankfully, it did not explode. The helicopter went out of control, and First Lieutenant Slavenas clearly did the best he could at crash-landing the crippled aircraft. Quite possibly he saved the lives of those who survived. Sadly, he did not.

This morning, I called the Slavenas family expressing my sympathy for the loss of their son. I have read the press accounts about his short but eventful and full life and the love which his family and so many others had for him.

This morning I heard interviews on National Public Radio of his friends talking about a great young man—this 30-year-old helicopter pilot. He had just graduated from college a few months ago. He enlisted in the Army right after high school and, having completed that stint, he enlisted in the National Guard and went to officer training school and he became a helicopter pilot. He earned a degree in engineering from the University of Illinois. Although Brian stood 6 feet 5 inches tall, he was a gentle giant. He was an accomplished pianist. His brother Marcus said, ''He was very generous, very patient with people. I just loved being with him. He was my favorite person in the whole world.''

I ask unanimous consent that these articles of tribute to Brian Slavenas be printed in the RECORD.

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

[From the Chicago Sun-Times]

(By Dave McKinney)

His brothers and his father served in the military, but when 1st Lt. Brian Slavenas was called to active duty earlier this year, his family tried to discourage him from shipping out. He could have resigned his commission in the Illinois Army National Guard and skipped the deployment that carried his aviation unit to Iraq, Despite his family's concerns, the 30-year-old helicopter pilot who had graduated from college a few months earlier decided it was his duty to go overseas with his outfit. On Monday, relatives gathered at the family home in the tiny farm town of Genoa to mourn his death spoke with pride—and some regret—about his decision to continue a family tradition of military service.

Brian Slavenas died Sunday when his CH–47 Chinook helicopter was shot down by shoulder-fired missiles in a attack that killed 16 U.S. soldiers. ''We know he didn't have to be there. But he chose to go and to serve his country,'' said his oldest brother, Eric Slavenas, 39 a U.S. Army veteran who participated in the invasion of Grenada in 1983. ''I miss him. I wish he were still here,'' Eric added. ''But I'm not going to go against his decision. I back him 100 percent.''

Brian wasn't eager to go to Iraq when he left in April, other family members said. He had completed study at the University of Illinois at Urbana-Champaign in December with an engineering degree and was eager to get on with his career. Still, he felt obligated to go overseas with his unit. ''He wasn't keen on the idea but he said, 'Once you're in, you can't cop out,''' said his dad, Ronald Slavenas, a former Army paratrooper who later served for a time with Brian in the same Illinois National Guard unit.

DRAWN BY HISTORY, ADVENTURE

During his time overseas, Brian's letters, calls and e-mails home were usually upbeat and often funny, his family said. Brian liked the adventure of being overseas in such an exotic location, Eric said, recalling that in one letter Brian described how he sipped a glass of Tang as he flew over the ancient ruins of Babylon. ''He enjoyed the sights he saw, being in such a historic part of the world,'' Eric said. ''He knew it was dangerous, but it was more of an adventure for him.'' At times, Brian talked of possibly staying in the military as a career, in part because he loved flying. ''I think during the war, he got gung-ho about what he was doing,'' said his brother, Marcus Slavenas, a 33-year-old former U.S. Marine who served in Operation Desert Storm.

Brian had already served a stint in the Army, joining after he graduated from DeKalb High School, where he played drums and threw the discus. After finishing active duty, he joined the National Guard, then went to officer school and became a helicopter pilot. Along the way, he also obtained a private pilot's license and earned his degree from the U. of I. Although he stood a towering 6 foot 5 inches tall, Brian was a ''gentle giant,'' according to his father. He was an accomplished pianist and dedicated weight lifter who could get along with just about anyone, his brother said. ''He was very generous, very patient with people,'' Marcus said, adding, ''I just loved being with him. He was my favorite person in the whole world.''

Besides his two brothers and father, he is survived by his mother, a stepmother, a stepbrother and stepsister.

MAY HAVE SAVED LIVES

Brian, a member of the Peoria-based 106th Aviation Unit, was activated in February and had been serving in Iraq since April, said Brig. Gen. Randal Thomas, adjutant general of the Illinois National Guard. He had been certified to fly the CH–47 Chinook helicopter since 2002 and was flying at 150 mph at about 200 feet off the ground when it was shot down near Fallujah, Iraq. Thomas told reporters in Springfield.

''We're thankful that a number of individuals survived that crash. It would be speculative to say the pilot did his job and got that aircraft down and saved lives, but I'd sure like to believe that,'' Thomas said.

The Slavenas brothers say they're upset the Army wasn't taking more precautions to protect the slow-moving Chinook helicopters from missile attacks like the one that killed Brian. Since the attack, the military has banned Chinook flights during the day because the choppers are too vulnerable. ''I support our military. The only thing I question is the tactics that were used in this situation,'' Eric said. ''Someone should have had enough foresight to see ahead that a lumbering aircraft that only flies 180 miles an hour makes a good target.''

Saying he ''just didn't believe this was our war,'' Marcus isn't sure the conflict was worth his younger brother's life. ''Personally, I wish these people in Iraq well, but I don't care about them like I do about my brother,'' he said. ''I think maybe I would like to see American military used to defend America and not police the entire world.''

And he regrets not trying harder to keep his brother from going to Iraq.

''We all very strongly encouraged him not to go,'' Marcus said. ''In retrospect, I'm going to kick myself—I wish I would have tried harder.

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[From American Morning (CNN), Nov. 4, 2003]

INTERVIEW WITH FAMILY OF DOWNED HELICOPTER PILOT

SOLEDAD O'BRIEN, (CNN Anchor). There was more violence in Iraq this morning. Another soldier was killed, the second in as many days. The soldier was killed after an improvised explosive device, or an IED, exploded in Baghdad. Another U.S. soldier was wounded in that blast.

The attacks followed Sunday's downing of a U.S. helicopter near Fallujah, the deadliest single attack on U.S. forces since the invasion. According to eyewitnesses, the second of two shoulder-launched missiles hit the CH–47 Chinook, as it flew just a few hundred feet above the ground. The missile struck the rear engine and started a chain reaction that caused the helicopter to crash.

Most of the soldiers were heading out to begin a two-week leave when the chopper was shot down. Sixteen soldiers were killed, and among them was the pilot, First Lieutenant Brian Slavenas, a member of the National Guard from Peoria, Illinois.

A little earlier today, I spoke to his family about their loss.

Mr. Slavenas, if I can begin with you. Brian actually could have avoided deployment, but he chose not to. Tell me why.

RONALD SLAVENAS (Father of Chinook Pilot). Well, that's the kind of person he is. He's a responsible person, and he took on something and he brought it to completion. That's the nature of Brian. He may not like the idea, but he followed it through, and I've got to do it, and he did it.

O'BRIEN. I read that he felt obliged to serve his country. He was a helicopter pilot in the National Guard.

Marcus, why don't you tell me a little bit about your brother, the person, not necessarily the military man?

MARCUS SLAVENAS, (Brother of Chinook Pilot). Not just because he was my brother, but he was really one of the best people I've ever known. Very clean living, very dedicated to what he did. If he decided to do something he did it. He focused on it and did it until he was excellent at it. He was very kind to people. He was a good person. It was not based on some rules. It wasn't based on religion. It's just the way he was. He cared about those around him and tried hard always to do his best.

O'BRIEN. Tell me—I know that he recently finished school. He'd gone to school for engineering. Give me a sense of what his plans were and his dreams were further down the road.

UNIDENTIFIED MALE. Well, we felt that Brian was probably going to get out of the military and pursue a career in engineering. He had a very promising career ahead of him. He did well in his field. I know there were a lot of companies that wanted to interview him. So, we were hoping and we all felt that he was going to continue on with the engineering.

O'BRIEN. Mr. Slavenas, when you first saw the reports—I have to imagine you saw the reports before you heard the news that it was Brian who was actually piloting this chopper. What was your reaction to this? And I've got to ask you, did you think after a certain amount of time that it was indeed your son who was among the lost?

R. SLAVENAS. Well, it crossed my mind. I thought he was further west of the area of where it happened, but he's been flying around all over Iraq, I guess, to Kuwait and back and forth. The Chinook is like a shuttle service for different units. He was flying support for different outfits. The last one for the 3rd Armored Calvary, and I thought he was further west. So, that was my kind of hope that maybe that wasn't Brian, but then later on we found the news that it was Brian, actually.

O'BRIEN. You served in the military, sir, and your three sons all served in the military as well. What are your thoughts about the U.S. involvement in Iraq and the occupation of Iraq right now?

R. SLAVENAS. Well, now that we're in, we have to stay the course. We just can't pull out. If we pull out, we'll have pandemonium. They have so many different factions in Iraq—the Sunnis, the Shiites, the Kurds, and what have you. And if we pull out now without stabilizing the situation, we'll have, as I said before, pandemonium. It would be a revolution. That's my feeling.

So, we have to keep a stabilizing cap over it and hopefully getting more help from other nations and other sources.

O'BRIEN. Marcus, you served in the military as well, and I know you have strong opinions on this.

M. SLAVENS. Yes.

O'BRIEN. What's your take on U.S. involvement in Iraq right now?

M. SLAVENAS. I don't believe we need to be there. I wish the Iraqis well, and I hope they can figure out their problems, but I don't want this to happen at the expense of our boys. I would like to see them come home. And as far as the troops go, while they're still there, I'm fully behind them. Fight as hard as you can. Destroy the enemy and keep yourselves alive and come back home. But as far as the government is concerned, please try to get out of that business and bring them back home as soon as possible.

[From the Chicago Tribune, Nov. 4, 2003]

FOR FAMILIES, SAD NEWS HITS HOME

(By Russell Working and Angela Rozas)

One soldier was going to visit his wife and three children, the youngest of whom he had never met. Another was on his way home to attend his mother's funeral. A third wanted to surprise her family in California with a two-week visit.

On Monday, the Department of Defense began releasing the names of the 16 soldiers killed when a transport helicopter was shot down in Iraq, marking the single largest loss of service members in that country since major combat ended in the spring. Another 20 soldiers were injured. Many of the dead had been heading home for vacation or emergency leave. Around the country, families that had been anticipating happy reunions instead were stunned by unexpected loss. As of Monday evening, 377 U.S. service members had died since military action began in Iraq. In that time, more than 1,836 have been injured as a result of hostile action.

Among those killed Sunday in the crash was 1st Lt. Brian Slavenas, 30, an Illinois Air National Guard pilot from Genoa who was one of two pilots on the twin-rotor CH–46 Chinook that was shot down Sunday. Four crewmembers, also National Guardsmen, were from Iowa. They were injured, but survived the crash, said Illinois National Guard spokeswoman Lt. Col. Alicia Tate-Nadeau. One of the Iowans was the senior pilot of the aircraft, but it was unclear whether he or Slavenas was flying the Chinook when it crashed, she said. Some 120 members of Slavenas' unit, the Peoria-based F Company of the 106th Aviation Battalion, are now deployed in Central Iraq. Another 85 Guard soldiers are deployed from an aviation unit housed in Davenport, Iowa.

Slavenas was a dedicated student who followed his father and two older brothers into the military. He was so unassuming it took him a week to tell his family he had recently been promoted to first lieutenant, said his father, Ronald Slavenas. His unit arrived in the Persian Gulf in mid-April, and had been based in Balad, Iraq, since July 22, said Chief Warrant Officer Ty Simmons, operations officer for the company. On Monday, they were grieving Slavenas' death and hoping for the recovery of the helicopter's crew, he said.

The crews spend their days flying over central Iraq, a dusty desert region better known as the Sunni triangle, where they move everything from Humvees and generators to drinking water and soldiers on leave. During missions, they fly fast and low, seeking to make themselves a more difficult target as they navigate dust clouds, high-tension electric lines and tan-colored towers that blend into the background of the desert, Simmons said.

Brian Salvenas deployed with the unit to the Middle East in March. Four months earlier, he had received a bachelor's degree in industrial engineering from the University of Illinois, said his mother, Rosemarie Dietz Slavenas, who lives in Rockford. He studied piano in high school and ''played beautiful, beautiful Chopin nocturnes,'' his mother said.

On Sunday, Ronald Slavenas thought of his son as he listened to reports of a helicopter crash in Iraq, and watched through the front curtain as a uniformed man arrived on the doorstep of his two-story brick home in Genoa. ''My heart sank,'' he said. ''I opened the door and said 'He's dead, right?' ''

On Monday, an American flag hung in the rain from the second floor of his house. ''Brian was just a real perfectionist,'' said Slavenas' brother Eric, 39. ''He wasn't a gung-ho, go-to-war kind of guy.''

Mr. DURBIN. Mr. President, there is another very important issue that is associated with this story. I have learned within the last 24 hours that all of the Chinook helicopters in the 106th unit, of which Mr. Slavenas was a part, consist of seven helicopters from the Illinois National Guard and seven from the Iowa National Guard. All of these helicopters do not have the aircraft survivability equipment required to protect them from the very threat that brought down this helicopter on Sunday.

This is a recurring and troublesome issue. We have heard time and again about National Guard forces which are activated and then shortchanged when it comes to the best equipment. We expect the most updated equipment to be given to the units that are in the fight. We understand that Active Duty troops must receive what they need. But consider where we are in the war in Iraq. It is supposedly a complete and seamless integration of National Guard, Reserves, and Active Duty forces. We expect the National Guard, under these circumstances, to receive the necessary upgrades in the war theater.

These Chinook helicopters are supposed to be equipped with one or more protective systems, such as the ALQ–156 system, to detect surface-to-air missiles, along with an automatic flare dispenser as a countermeasure. They are also supposed to be equipped with seat armor to protect the pilot and crew.

What I have learned within the last 24 hours, from reliable military sources familiar with the situation on the ground in Iraq, is many of the Illinois and Iowa National Guard helicopters have flown for almost 6 months in the theater without the necessary aircraft survivability systems. Some of them have received systems, some partial systems, but only within the last week or two, many of the systems have been scavenged from departing Guard units from other States that are leaving Iraq. Many of the helicopters don't have seat armor. There are reports that the radios don't function properly. Reliable military sources have told me and my office about the level of protection for our helicopters in Iraq and what they tell me is unacceptable. They tell me of helicopters ill equipped to deal with the threat of shoulder-fired missiles; units scavenging equipment from helicopters leaving the theater to secure the protective gear they need. They report on helicopters flying without seat armor to protect the pilot and crew, and of helicopters flying without equipment designed to protect them from known infrared missile threats; Guard units scrambling to find the parts necessary to equip their craft with protective gear. Is this how we equip our men and women who are called to active duty?

Today I am asking Secretary Rumsfeld to see to it the helicopters in the theater are provided with the aircraft survivability equipment necessary to meet the expected threat. If that equipment is not available, I believe Secretary Rumsfeld should protect those

units until they are properly equipped or reassess when and where they will fly.

I ask unanimous consent that this letter I am sending to Secretary Rumsfeld be printed in the RECORD.

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

DEAR MR. SECRETARY: We are concerned about reports that the CH–47 National Guard helicopters attached to the 82nd Airborne Division, the unit which included the helicopter shot down by a surface-to-air missile in Iraq on Sunday, may not have had necessary or fully complete aircraft survivability equipment. As you know, 16 military personnel died in that attack, including the pilot, First Lieutenant Brian D. Slavenas, from Genoa, Illinois. The helicopter was from the Iowa National Guard.

We understand that, while Guard units that are activated may leave the United States without all the necessary equipment, they are to be upgraded in theater. Sources tell us that a number of the helicopters in the unit in question were flying in Iraq for almost six months without necessary equipment, and were only recently provided aircraft survivability equipment, some of which was not complete. Some may still be lacking this equipment.

First, we ask that you immediately ensure that the helicopters in theater are provided with the aircraft survivability equipment necessary to meet the expected threat. If that equipment is not available, you should protect those units until they are properly equipped, or re-assess when and where they will fly.

We ask that you investigate, and respond as soon as possible, whether the helicopter that was shot down on Sunday had on board a fully-operational ALQ–156 system with an automatic flare dispenser and whether it had seat armor; whether all of the helicopters in this unit are fully equipped at this time and the precautions being taken to protect the crews and passengers of those not properly equipped. The same questions need to be asked regarding all activated Guard and Reserve helicopter and fixed-wing units.

We understand that the ALQ–156 is intended to protect against the expected threat from some surface-to-air missiles, but may not be as effective against other missiles. Is the ALQ–156 adequate for the expected threat in Iraq? If not, we would like to know when the helicopters will receive the upgraded equipment and your assessment of the risk to military personnel of flying without such upgraded equipment.

I appreciate your prompt response to this inquiry.

Yours truly,

RICHARD J. DURBIN
U.S. Senator.

Mr. DURBIN. Mr. President, I am also calling on Secretary Rumsfeld to investigate and respond as quickly as possible on whether the helicopter that was shot down on Sunday had on board a fully operational ALQ–156 system with an automatic flare dispenser and whether it had seat armor. I also believe we need to know the status of the other helicopters in this unit in reference to protective equipment, and what steps are being taken to protect the crews and passengers in those that are not properly equipped. I understand the ALQ–156 system is intended to protect against the expected threat from surface-to-air missiles, but may not be effective against other missiles in the theater.

I am also asking the Secretary if that ALQ–156 is adequate for the expected threat in Iraq. If not, I would like to know when the helicopters will receive the upgraded equipment and his assessment of the risk to military personnel of flying without such upgraded equipment.

I find the reports I am receiving from military sources about the lack of protective equipment on these helicopters to be alarming and unacceptable. We know what a dangerous environment Iraq is. The threats from surface-to-air missiles were well known even before this tragic crash. The helicopter that was shot down was not on a mission directed against regime remnants or terrorists. It was transporting soldiers to the airport in Baghdad so they could leave for R&R.

We will not know for sure how it was shot down or how it was equipped until the investigation is completed. This tragedy highlights the fact that protective equipment cannot only be reserved for missions in the fight. Every mission is in the fight in Iraq today.

The Senate passed the Iraq supplemental appropriations conference report yesterday with more than $87 billion for equipment for our troops in Iraq. If the funds are not adequate to protect our troops and aircraft, the Congress must be advised immediately. If there is a shortage of equipment, we must act immediately to secure it.

The dangers of war are well documented. Every soldier, sailor, marine, and airman should know this Government has done everything in its power to protect them, keep them safe, and give them everything they need so they can complete their mission and come home safely.

We have given this administration every dollar for which they have asked. Now they must give our soldiers what they need to be safe and successful—the protective gear and body armor they need—as they work on the ground among dangerous situations. Armor is needed for the Humvees to protect them from rocket-propelled grenades, and they need state-of-the-art equipment to protect our helicopters from shoulder-fired missiles.

I call upon the Secretary to address these shortages immediately and to investigate fully whether the helicopter that was shot down and all of the helicopters in Iraq are adequately protected. We owe this to our men and women in uniform and to their families who pray for their safe return.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, does the Senator from Colorado wish to speak?

Mr. ALLARD. Yes.

Mr. SARBANES. Before the Senator begins, I want to renew the call we made a few minutes ago. I know the chairman agrees with me in doing this. To those who want to speak on the pending amendment, we hope you will come to the floor and do so. We hope others who have amendments they want to offer will be prepared, once we dispose of the current amendment, to present their amendments so we can move along.

There is a possibility I think we can finish this bill in good order. I know that is what everyone would like to accomplish. I know Chairman SHELBY is anxious to, on the one hand, move things along and, on the other hand, ensure people have an opportunity to address these matters. In order for them to do that, we need them to come to the floor, so we are putting out that call.

Mr. REID. Will the distinguished Senator from Maryland yield for a question?

Mr. SARBANES. I am happy to yield to the distinguished leader for a question.

Mr. REID. My concern with this legislation is not as much the legislation itself as it is that Thanksgiving is coming soon. We don't have the luxury of waiting for days. This legislation could take days with the order that is now in effect in the Senate. We have more than 20 amendments. If we take several hours on each amendment, we are not going to finish this week. I ask that those people—Senator FEINSTEIN was here and she has indicated on her next two amendments she would take a half hour on each.

I ask the floor staff, when they have an opportunity, we probably should probably get two amendments locked in so we have at least time limits on those two. I know Senator BOXER has some amendments. If we could ask those Senators to come forward and agree to time limits on them, that makes it much easier for the two managers to manage the bill. I am quite confident that if the two leaders see the work on this bill is not going very quickly, it will be an awfully late night tonight because I know there are many things the two leaders want to finish on Thursday and Friday. I think there was some expectation and hope the bill would be completed by tomorrow.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the chairman of the Banking Committee and the ranking member for giving me the opportunity to speak on the bill. To accommodate them, if individuals come to the floor willing to offer an amendment, signal me and I will clear the floor and give them an opportunity to offer their amendment. I agree with their goal of getting us out of here quickly and getting the work done. If someone has an amendment, I do not want to hold up the process.

I rise in support of S. 1753, commonly referred to as the National Consumer Credit Reporting System Improvement Act of 2003. I was pleased to support the bill as a member of the Banking Committee, and I am sure it will receive

strong support on the Senate floor as well.

I would like to thank Chairman SHELBY and his staff for their hard work. This is a balanced, sensible bill and clearly a product of their willingness to listen to all interested parties. Chairman SHELBY compiled an extensive hearing record and provided a comprehensive foundation for crafting this legislation.

He crafted a bill that provides a balanced approach to the concerns expressed during the hearings and provides significant improvement, I believe, to the Fair Credit Reporting Act. I thank him for working so closely with committee members to ensure that our concerns were addressed in this bill.

I would also like to acknowledge the efforts of the ranking member, Senator SARBANES, and his staff. As I mentioned, this bill received strong bipartisan support in committee, and this is certainly due in part to the diligence of Senator SARBANES. His effort and his support have made this a stronger and better bill.

Reauthorization of the Fair Credit Reporting Act is vital to the functioning of our Nation's credit markets. I think that goes without saying. Without the FCRA, credit would cost more or, in many cases, simply would not be available to consumers.

S. 1753 ensures that the markets will continue functioning smoothly by permanently reauthorizing the Fair Credit Reporting Act. As a former State legislator and a strong champion of States rights, I do not take Federal preemption lightly. In fact, I have a very high threshold for Federal preemption. I believe, though, that FCRA meets the necessary standard. The credit markets truly are national, and a patchwork approach to credit reporting will quickly disintegrate the necessary comprehensive approach we need.

When it comes to credit reports, accuracy is in the best interests of both industry and consumers. I believe this bill will help improve accuracy in credit reports. Consumers will have increased access to their credit information and increased tools to combat identity theft.

The framework provided in the bill provides sufficient flexibility for the act to adapt with time and changes in technology. I am especially pleased that S. 1753 includes a bill I have worked on with Senator SCHUMER referred to as the Consumer Credit Score Disclosure Act of 2003. This provision would allow consumers applying for a mortgage to receive a copy of their credit score. Credit scores are increasingly being used in deciding whether to extend credit. Yet consumers do not always have access to this information.

What I found out about credit scores and heard in reports back from my constituents about things that affect their credit was that few of them realize that the number of times you apply for a credit card, for example, could impact your credit. It does when you look at the credit score.

I always figure as long as you paid your bills on time or your credit cards on time and the more credit cards you had and paid them on time, it just showed what a better job you were doing in managing your finances and would actually enhance your ability to get loans. That is not true. If you got carried away and decided to apply for every credit card you received in the mail, you could actually adversely impact your credit rating, particularly as it applies through the credit score.

This provision contained in S. 1753 would ensure that consumers would receive the critical information when applying for a mortgage, which is generally the largest purchase a person will make during their lifetime.

In addition to their actual numerical score, the consumer will be entitled to receive information concerning the factors that helped determine their score, as well as ways in which they can improve their score. This provision will empower consumers to shop around and help prevent them from becoming victims of predatory lending.

I believe expanding access to credit scores is an important victory for consumers, and I am pleased it has been included in the bill we are considering today. I am hopeful this will be the first step toward giving consumers even broader access to credit scores.

As chairman of the Housing Subcommittee, I would also like to make a few comments on the impact, the importance of the Fair Credit Reporting Act as part of the home buying process. Because FCRA gives lenders access to more accurate and more complete credit information, they are able to more accurately price risk. This is important because for most people, a home is the largest purchase they will make. The ability to accurately price the risk as reflected in mortgage rates can make the difference of thousands and thousands of dollars over the life of the mortgage.

The availability of credit information stemming from the FCRA has reduced the cost of home ownership for many and opened up previously unavailable opportunities to others. In fact, home ownership rates are currently at record highs. Permanent reauthorization of the Fair Credit Reporting Act will help us continue on that path. This is especially important as we work to expand the minority home ownership rates as minorities are disproportionately impacted when credit becomes less available.

The Fair Credit Reporting Act has been beneficial to consumers, and the improvements contained in S. 1753 will extend those benefits. I am pleased to add my voice to those in support of the bill, and I encourage my colleagues to join me in voting for the National Consumer Credit Reporting System Improvement Act of 2003.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 2054

Mr. JOHNSON. Mr. President, I wish to express my great high regard and respect for my colleague from California, Senator FEINSTEIN, but I must rise in opposition to the amendment she offered earlier this afternoon.

I think it is important for us to keep in mind that the Fair Credit Reporting Act provided for a national preemption going back to 1996. It has been an extraordinary success story for America's consumers, particularly America's middle class and working families who previously suffered the most from a lack of access to credit but now find themselves having access to credit never before imagined and having it done in an instant fashion.

The legislation before us is an enormously complex piece of legislation. It takes the 1996 preemption and builds on it, and strengthens consumer rights beyond anything we have ever known before. Chairman SHELBY and ranking member SARBANES deserve great credit for what they have been able to do. They put together a bill that had a unanimous vote out of the Senate Banking Committee—no easy feat, we all know.

To now on the floor of the Senate introduce a very complicated and, some would suggest, improperly drafted amendment only serves to slow the process and, in fact, perhaps even to jeopardize passage of the reauthorization of the Fair Credit Reporting Act, something that must be done before the first of the year, otherwise, the consequences would be catastrophic not only to the business community and to our economy but to American consumers who would be the biggest losers of all if we were unable to pass legislation because of the additional burden put on it by the Feinstein amendment.

I wish to very briefly touch on some problems that this amendment poses. The amendment being offered is different from and far more unworkable than the affiliate sharing restriction in the California legislation, and I will comment on why this is so.

First, the amendment being offered is much broader in scope than the California bill. Despite claims that they fixed the overly broad scope because of drafting errors, that simply is not the case. Unlike the California amendment SB–1, which applies specifically to financial institutions, this amendment applies to any institution that has affiliates, including retailers, manufacturers, nonprofits, labor unions, churches, universities—basically, every type of organization in the country that shares certain consumer report information.

Yet the most important exception by this amendment being offered is provided only to financial institutions. Clearly, the drafters of the amendment have spent a lot of time on the California bill, perhaps more so than on the FCRA, because there does not seem to be the full appreciation of the breadth of the very statute they are amending.

The Feinstein amendment provides exceptions to certain institutions based on their functional regulator, a concept we defined in Gramm-Leach-Bliley in the Banking Committee and which is specifically defined in this amendment. It is limited to financial institutions such as banks, securities firms, and insurance companies.

This means while financial institutions can qualify for what proponents refer to as the ''silo'' exception, other covered businesses cannot. I assume this is probably a drafting oversight, but it simply reinforces my concern that this amendment has not been fully vetted by the Banking Committee or by any other presence in the Congress. I doubt very seriously that the sponsors are trying to give large financial institutions a competitive advantage, but that is one of the consequences of the amendment that has been offered.

The FCRA has a sweeping scope by design. Congress believed and still believes that sensitive information bearing on credit, employment, or insurance risk, no matter who is using it, should be protected. That is why the FCRA is by no means limited to financial institutions, and should not be.

The amendment being offered backtracks on the final version of the California legislation with respect to the so-called common database exception that was an integral part of the deal.

The amendment contains the original, unnegotiated version of the common database exception, which was widely understood to be unadministratable. This provision, which was intended to assure companies with large information databases that they would not have to undergo major systems revisions, fails to accomplish that goal.

The final version of the database exception prohibited information from a common database to be further disclosed or used by an affiliate. The amendment before us this afternoon prohibits not only disclosure or use but even access itself.

What is the point of a common database if it cannot be accessed? I understand that the California bill has come under fire recently for including what some view as a giant loophole of the common database exception, and I share Senator FEINSTEIN's concern about the loophole but it is not right to make a major change to a central provision and continue to claim that this amendment mirrors SB–1, the California legislation.

Even if all the California exceptions were added, the amendment would still be far less workable than the affiliate sharing provision in the unanimously adopted Senate Banking Committee bill.

With all the California exceptions, the only sharing not permitted would be affiliate sharing used for solicitation and marketing purposes.

It is simply not true, as some have suggested, that the California opt-out applies to information shared for a broad range of purposes other than marketing and solicitation. But if sharing for solicitation is all that is subject to the California opt-out, then why not use the far more straightforward approach of the bipartisan Banking Committee bill? That is, why not target the opt-out only to solicitations of noncustomers made possible by affiliate sharing?

As the Banking Committee has recognized, and as the Senator from California has pointed out many times during today's debate, the real consumer concern is getting bombarded by advertisements from unfamiliar companies. We all sympathize with that. The bipartisan committee bill addresses this concern head on with its targeted, focused provision on affiliate sharing, while the pending amendment, even if it added all of California's numerous exceptions, which it does not, is far more cumbersome and overreaching on its face. In fact, the committee bill gives consumers far more control. S. 1753 allows consumers to opt out of all marketing from any affiliate. The pending amendment does not do that.

For example, the California silo exception strips away consumer control over information shared by affiliates in the same line of business. By contrast, we believe consumers should not have to be bombarded by marketing materials just because they have chosen to do business with a large financial institution.

Sharing of information among affiliate entities has a significant impact on the cost and availability of credit in ways that are not always apparent to consumers. This is a critical point that I believe has been lost in the course of this debate.

Former Treasury Secretary Robert Rubin testified back in 1997, for example, that consumers could expect ultimate savings of as much as $15 billion per year from the increased efficiencies that affiliation provides.

Treasury Secretary John Snow recently testified that affiliate information sharing serves a critical purpose in the war on identity theft.

FDIC Chairman Don Powell has noted that access to credit and the cost of credit is far more favorable in the United States than in other parts of the world due, in large part, to the relative ease of information sharing between potential credit customers and potential lenders.

Finally, Federal Reserve Chairman Alan Greenspan has noted that information sharing has had ''a dramatic impact on consumers and households and their access to credit in this country at reasonable rates.''

The Senate bill ably balances the legitimate concerns of consumers against the substantial benefits that information sharing brings to this economy and to all consumers. As Chairman SHELBY and ranking member SARBANES have noted, this is an enormously complicated area of law, and the committee took great care to guard against unintended consequences, spent literally months on the drafting and formulation of this legislation.

Make no mistake, it is hard to imagine that what we are doing here today is the last word on privacy. Our constituents will continue, rightfully so, to demand that we review our current laws as information technology develops. I believe we intend in a bipartisan fashion to do just that.

At this point in time, giving consumers the right to opt out of marketing, with no exceptions, is the right rule for American consumers, while at the same time providing immediate and affordable access to credit to all of our consumers, regardless of their economic background, regardless of racial or other factors is something that I think this Senate can take great pride in and we can take great satisfaction in the quality of this bipartisan legislation.

I urge my colleagues on both sides of the aisle to mirror the bipartisan vote of the Senate Banking Committee and to support the FCRA reauthorization and oppose the Feinstein amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I have listened carefully to the comments of Senator FEINSTEIN earlier, and I will make a couple of important points in response to her amendment.

First, as a privacy advocate, I fully appreciate the interest and concern at hand. Indeed, both Senator SARBANES and I have been very sensitive and worked together a lot on privacy concerns. As we took up the Fair Credit Reporting Act, this was one of the key considerations we sought to balance, even as the law itself requires. We did this in what was a very comprehensive, transparent, and lengthy review of the law and issues at hand as we considered reauthorizing our national credit standard.

Second, the amendment of the Senator from California makes two basic assumptions which ultimately guide her amendment's approach and goal, as I understand it. No. 1, that there is something inherently nefarious about the use of affiliate structures; No. 2, that consumers have no rights or means to protect themselves with respect to the handling of their transaction and experience information.

I believe that our consideration in the Banking Committee would therefore be instructive in understanding the better approach adopted in our bill and why I intend to oppose the amendment of the Senator from California. To the first point: Why do affiliates exist? Companies establish affiliates for a variety of legal, tax, and accounting reasons—because laws require them to do it.

What do these structures mean for consumers? Some companies choose to create separate legal entities known as

separately capitalized affiliates. Other companies elect to locate all of their business lines in a single entity. Regardless of the structure that a firm employs, consumer information is generally used in the same fashion. Affiliates or the separate business line share it to service their customers, fight fraud, or develop new business. The affiliate sharing provisions contained in the Fair Credit Reporting Act exist to make it clear that companies should not suffer because they have chosen a particular corporate structure.

From the consumer's perspective, I believe there is no real difference between a company making an internal transfer of information among departments and sharing between affiliates. In fact, in many cases where affiliate sharing is occurring, most consumers would not recognize that the two parties are involved in the transfer. Rather, they would be under the impression that information is merely being moved within the single entity with whom they have chosen to do business.

Second, there are real rules and provisions governing the manner in which transaction and experience information is handled. First, we need to consider what exactly transaction and experience information is. Transaction and experience information involves checking and saving account balances, credit card balances and repayment history, mortgage balances and repayment history, and mortgage and brokerage account balances and transaction activity. In many instances, the information is the very information provided to the consumer reporting agencies where, as consumer report information, consumers are afforded significant rights under the Fair Credit Reporting Act.

More important, however, this is information that is routinely provided to consumers as required by separate laws and regulations. For example, the Truth in Lending Act, the Fair Credit Billing Act, the Truth in Savings Act, the Electronic Funds Transfer Act, provisions of the securities laws and the Uniform Commercial Code all provide consumers substantive rights with respect to transaction and experience information. These include disclosures and access rights and error resolution procedures.

I believe the bottom line is that consumers already have access to and rights concerning transaction experience information right now under the law. But at the end of the day, I believe the main concern I heard with affiliate sharing uses was the use for marketing purposes. At the end of the day, I believe that is all that is really left restricted, in some way, under California's approach after accounting for the exceptions and exemptions.

So after spending more than a year considering the law carefully in order to balance the needs of our national credit system, which we all believe is crucial to the operation and strength of our economy, with a need to protect consumers rights, the Banking Committee identified two key areas for increased Federal protection: The sharing of medical information and restricting affiliate sharing used for marketing purposes.

This bill does so in the context of the Fair Credit Reporting Act in a straightforward and narrowly tailored way and does not give preferential treatment to certain business models over others.

This brings us to a third and very important point. The Fair Credit Reporting Act deals with more than just financial institutions. The sponsors, as you know as a member of the Banking Committee, Mr. President, seek to impose a model that was tailored strictly for financial institutions to all furnishers of credit information, subject to the Fair Credit Reporting Act. This model is largely based on SB–1, the California Financial Services Law.

The amendment's sponsors have tried to graft a banking bill on to the Fair Credit Reporting Act. This effort, I believe, is misplaced, and this effort does not mesh with how the FCRA, the Fair Credit Reporting Act, works and to whom it applies. Gramm-Leach-Bliley made it permissible for California and all other States to pass legislation that regulates third party sharing activity. This bill would not affect those provisions in the California law that come because of Gramm-Leach-Bliley. With respect to the part of SB–1 that conflicts with the Fair Credit Reporting Act, the California law was preempted, making it unenforceable when it was enacted. This bill does not change or alter that fact in any way.

The irony is that, even if we were to assume these provisions were violated, California's attempt to overturn Federal law is actually weaker than the Senate bill. The California law, as I have heard here, as it is targeted at financial institutions, covers a much more limited range than the broader Fair Credit Reporting Act, which deals with information, not entities, and therefore includes retailers, auto dealers, mortgage providers—anyone who furnishes credit.

Furthermore, California's rule is eaten by its exceptions and its exemptions. Its provisions provide consumers with no real choices or meaningful protection. The Senate bill covers the areas that consumers care about—marketing and the sharing of medical information—by providing real protection. Unlike the Senate bill, the California law still exempts most of the largest financial service firms they claim the law is intended to address.

The Senate bill was carefully tailored to address key concerns in a more clear and a concise way. The Senate bill before us targets unwanted solicitations without otherwise preventing sharing activities that provide benefits to consumers. Unlike the California bill, the Senate bill is designed to protect consumer interests. The unenforceable portions of the California law were designed to promote a specific business model by hobbling others.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I rise in favor of the Feinstein-Boxer amendment, and I note that there are a number of others on that amendment as well. I hope colleagues will realize this amendment will make this bill better, will make this bill stronger, and I am going to take a few minutes to explain why in as simple a way as I can.

I stand here very proud that my State treasures privacy and they acted on that value. After years of struggle, California put into law the most tough financial privacy standard in the Nation.

Others can say oh, that is not true, and they can quibble, but the facts are the facts. Every consumer group that you ask, any group that is objective on the subject, will tell you that our law is the best and is far better—certainly than the House bill, and better than the bill that is before us today.

I do want to compliment my friend. You have made some good advances here. I will talk about that in my statement. But we can do better, and I offer this amendment with Senator FEINSTEIN in a very friendly way, in the hopes that maybe we can make this better.

The struggle to pass SB–1, California's financial privacy law, was very long and very transparent. I want to say that State Senator Jackie Speier did an unbelievable job. For 4 years, she worked with banks on behalf of the consumers. The industry invested more than $20 million in lobbying expenses and campaign contributions during those 4 years but eventually a wonderful thing happened. The banks came to the table and they negotiated with Senator Speier. The fact is, there was a reason. They saw the handwriting on the wall. They saw that there was going to be a State initiative. They had already gathered 550,000 signatures quickly and Senator Speier's provision for more strict privacy was supported in the polls. How about this? California Democrats in the polls supported this initiative by 96 percent; and California Republicans, 88 percent; Independents, 90 percent.

So Senator Speier had touched on a very important value of Californians. I really do believe if you took a poll today, just a really carefully worded one which went into every State in the Union, there would be support for this Feinstein-Boxer amendment to make this bill stronger.

I will explain it.

The committee went ahead and did some good things. It includes fraud alerts for consumers and protection for credit card numbers on receipts and free credit reports.

It is very important they say that you can't go outside and share the information with outside companies. That is great. I salute Senators SHELBY and SARBANES for that progress.

However, there is one major problem Senator FEINSTEIN and I are addressing in this amendment. We are saying, first of all, if a State wants to go further than you have, we ought to have that chance. Your bill ought to be a ceiling. All good wisdom doesn't reside here. We always like to think it does, but it doesn't.

A lot of our States are ahead of us, and they want to do more. Yet California finds itself left out because there is no preemption for our State. We know we are not going to get that. We have 35 million people in our State. We can't get an exemption. We understand that. We are simply asking you follow the lead of our State on this one because I think it is the fair thing to do.

Some people listening today might say, Well, the committee bill says you can't go outside and share information. But you can share it with your own affiliates that are in your little corporate family. What is wrong with that? That is a logical question until you look at the banking industry and look at how big these families can get.

Let us take a look at some of these families for which this bill would allow affiliate sharing.

Let us take a look at Citigroup. They are small? They have 1,630 affiliates.

Bank of America. How well I remember the proud history of that bank in my State. They have 1,323 affiliates.

JP Morgan, 967 affiliates; Wachovia Corporation, 886 affiliates; Wells Fargo, 671; Bank One, 253.

When you say to all of these people you cannot share information outside your family, you are in essence saying you can share it within your families. We are talking about thousands of affiliates that will get every bit of information about you and your financial transactions. My colleagues can stand up here from night until morning and argue with me on the point that we are wrong on this. I know we are right. This is the right thing to do to protect our constituents.

Let me show you Bank of America affiliates. I want to show it in a way that is pretty graphic. I will not read every one of their affiliates. I am going to truncate and do this quickly.

We have nine charts listing all of these. These are Bank of America banks: Commonwealth National Bank, First National Bank, National Bank of Howard County, and American State Bank. I can't even pronounce some of these. Bank of America Mexico; Finacero Bank of America. They will know your transactions. That is just the first Bank of America chart. Let us look at one other. We do have nine of these. I will go quickly.

Here is another one. Let us go to Bank of America insurance companies and look at who they own: First National Insurance Services, American Fidelity and Liberty, Bank of America Insurance Services, Inc., and Home Focus Services. I don't know what they do, but they will know what you do. General Fidelity Life. How about Boatman's Insurance Agency? You do business with any one of these and more than a thousand affiliates will know how much you earn, what your Social Security number is, how did you pay, if you missed a payment, what your likes and dislikes are.

Let us show a couple of others.

Bank of America and other affiliated companies: Oakland Trace Redevelopment, Holly Springs Meadows, LLC, East Nashville Housing. You go into a bank in California and East Nashville will know what you are worth.

Dallas-Ft. Worth Affordable Housing, Old Heritage New Homes, Texas Corporate Tax Credit Fund, and it goes on. Michigan, Osbourne Landing Limited, it goes on and on. West Wood Manor Development, Elk Ridge Apartments.

The point I am making—and I will show one last chart. We have 9 of these charts listing Bank of America's 1,600 affiliates, for anyone who really cares enough to examine each and every one of these affiliates.

Our point is we could go on and on and make our point with each and every chart, but I am going to spare my colleagues. They have worked long and hard already today. Here is the point: Do not share. That is a simple message. This Senate supported ''do not call.'' We said people deserve their privacy. If you don't want to get a call at night, you shouldn't have to get a call at night.

We are saying if you decide—and our amendment simply says you have to opt out automatically under this Feinstein-Boxer amendment—your information would be shared, you have to take an affirmative step and opt out. If you are a person who believes in your right to privacy, and you don't want some company over in The Netherlands to know what you are about, because there is one here—Bank of America Netherlands. How about Odessa Park? These are worldwide affiliates. We are very proud of Bank of America. Good for them. They have all of these affiliates. But not good for them if they start to share information.

Under the underlying bill, they can share all sorts of information with every one of these affiliates. Guess what. You get turned down for a loan, let us say, because of information that was shared among the affiliates. You have absolutely no right to know who told who what, where, and when. What if it was wrong? There is no redress. There is no way to correct the record.

All I can say is I have heard the debate, and I have heard our amendment taken out of context: Oh, gee, that amendment will make it worse for people. Wrong. I will tell you who is supporting our amendment—people who have fought their whole lives for consumers and for the rights of people to have privacy. That is who is supporting us.

The AARP, which represents many seniors, supports our amendment; the ACLU fights for civil liberties and privacy; Consumer Federation of America, Consumers Union, the National Association of Consumer Advocates, National Community Reinvestment Coalition, Privacy Rights Clearinghouse, Privacy Times, U.S. PIRG. These are people who absolutely know our amendment is a step in the right direction.

I have a couple of other points to make. I will make them as quickly as I can.

I want to share with you some of the quotes that were made by the big banks when California passed its law. Did they complain about it? Not at all. This is what they said.

This is Diane Colborn who lobbies for Personal Insurance Federation. She called this workable, reasonable compromise a ''balanced measure that will provide meaningful protections to consumers while also addressing the workability concerns that our members and customers had.''

Jim Bruner, who lobbies for the Securities Industry Association, appeared before our committees in California. He said the measure is a ''good, workable, reasonable bill.''

The ink didn't dry on that bill before they came up here and started wining and dining and talking to people—I guess you can't wine and dine anymore, and that is a good thing—about why this bill couldn't go too far. Don't go too far; it is a burden. I am so sorry about that. I was so excited when California passed the privacy protections.

In closing my remarks, I will read some newspaper editorials.

From the New York Times: ''Buyer Beware,'' just written a few days ago.

> This (affiliate sharing) is a dark and unmapped universe in which banks, credit card companies and insurers have free rein to share detailed records among thousands of affiliates, with customers largely powerless and unknowing. Bank balances, buying habits, investment profiles and more can be tapped into in ways that invite fraud, marketing assaults, identity theft and unfair credit decisions.
>
> The Senate measure contains no real solution for indiscriminate data sharing. Far preferable is an amendment to be offered by Senators Dianne Feinstein and Barbara Boxer of California that would require advance notice from businesses so consumers would have a chance to block planned sharings that reached beyond relevant credit issues. Rejection of this amendment would only compound businesses' temptation to be marketers rather than the protectors of the privacy of the American consumer.

We know in the underlying bill you cannot share for marketing purposes, but there is a giant loophole dealing with preexisting relationships, making it confusing and complicated. That is why I believe the Feinstein-Boxer amendment will cure these problems.

From the San Jose Mercury News:

> The financial services industry is guilty of a nasty bait-and-switch on the people of California. Its lobbyists worked with privacy advocates to help shape the law into what the industry called a reasonable and workable compromise. All the industry said it hoped for was a uniform privacy standard across the nation.

Yet immediately after the California law was approved, industry lobbyists went to Washington to try to erase it from the boxes. The only national standard they are interested in is one that gives them the unfettered right to sell their customers' personal financial details to the highest bidder. That was the San Jose Mercury News, in the heart of Silicon Valley. This is a newspaper that very often is on the cutting edge of the way we ought to be thinking about financial issues.

I close with an editorial from The Los Angeles Times, October 29, entitled ''Put Privacy on the List.''

Congress promised voters that it would improve consumer rights with regular reviews of the Fair Credit Reporting Act, initially passed 33 years ago to balance the competing interests of business and consumers. Bills in the House and Senate would make it easier for consumers to see credit reports and report identity theft. But the legislation wouldn't help consumers keep private their bank balances, spending patterns and other sensitive data. Congress could cover this gaping problem by adopting the amendment crafted by Feinstein and Boxer, which keeps alive the protections at the heart of SB 1.

Colleagues, I know sometimes we get bills where deals have been cut, deals have been made, and everyone has put their hand out like after a sports game, saying: OK, on blood oath, we will not take amendments. I have been here long enough to know that.

I hope some colleagues will be open to this. We have done the right thing. Strong percentages of the American people—if it mirrors California, it would be 80 percent and above—support making sure that your personal-private financial data cannot be shared within a family of a company which could include thousands—1,600, 2,000, who knows—as more and more mergers go on. We do not want that information to be shared.

That is exactly the right course to take. I am hopeful we will get a strong vote on the Feinstein-Boxer amendment.

I yield the floor.

Mr. DURBIN. Mr. President, I rise to speak in support of the Feinstein-Boxer amendment to S. 1753 on the sharing of information among affiliates. This amendment would give consumers the choice to opt out of having their personal ''transaction and experience'' information shared among affiliates. The privacy provision in the California law represented by this amendment was the result of long negotiations among consumer groups and banks, and in the end the banks in California called this provision ''reasonable and workable.'' Reasonable and workable. I am a cosponsor of this amendment because, in a reasonable and workable way, it simply gives consumers some control over their personal information.

Let me emphasize just a few key points about this amendment. The amendment is still about an opt out, not a blanket restriction. It just gives consumers the option of keeping their personal information personal. Now the underlying bill also has an opt out, but that opt out is minimal: it is just for marketing, just for new customers, and would expire 5 years after the consumer requested it. The Feinstein-Boxer opt out, by comparison, is for the exchange of transaction and experience information; it is for uses other than marketing; it is for current and new customers; and it has no expiration. It, therefore, provides more protection for consumers who are concerned about protecting their privacy.

Another thing to remember about this amendment: the amendment does not alter preemption. With this provision States would still be deprived, permanently, of the opportunity of enacting their own legislation relating to affiliate sharing. If we are going to have a national law, we need a reasonable national standard.

Mr. President, a lot has been said about this amendment and how it would create all kinds of problems, so let me be clear about what this amendment would not do.

The amendment would not prevent the extension of affordable credit. Affiliates could still request credit reports and scores, as always.

The amendment would not prevent affiliates working under the same name in the same line of business from working together: it contains an exception for sharing among such close affiliates. It would not impede the investigation for fraud or identity theft. It would not impede transactions or the servicing of a product requested by the consumer. It would not impede institutional risk control. It would not impede the resolution of customer disputes or debt collection. It would not impede efforts to locate missing and abducted children.

Mr. President, I say again: If we are going to have a national law, we need a reasonable national standard. This amendment is just such a standard. I urge my colleagues to support it.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Maryland.

Mr. SARBANES. I will be quick because I know the chairman intends to move ahead with respect to this amendment. I will make some very basic points.

Some of this discussion has been along the lines that under existing law this information is shielded and we are taking something away from people. The fact is, under existing law there are no limitations on the sharing of information with affiliates. That is the existing law.

What the committee has sought to do is place the limitation on the sharing of information with affiliates for solicitation for marketing purposes, which is the biggest complaint we have heard flowing out of the sharing of information. That is what people have complained to us about. We are trying to provide that protection for the consumer.

The California law and the amendment take a different approach. They, in effect, say you cannot share information with an affiliate or the consumer has to be given the opportunity to opt out. But the California law has some exceptions or exemptions from that requirement. The amendment that is pending has 17 such exemptions.

To evaluate this—it is very complex; I agree with my colleague from California when she says this is a complex area; it is very complex—but to evaluate these exemptions, you have to work through all of the exceptions and see where that leads as opposed to what is in the committee bill.

Let me give an example. One exception is if a company is in the same line of business, a common brand, then the provisions of the amendment do not apply with respect to restricting and sharing of information. What the committee has reported out would, in fact, apply a limitation, an opt-out limitation in that instance for soliciting for marketing purposes.

As I said earlier, that is generally what we have heard as being the source of people's concern and discontent. In that sense, what is in the bill is for that purpose broader than what is in the amendment.

These extensive exceptions will involve a great deal of litigation. We do have a preexisting customer relationship exception, our provision, which we expect the regulators to define, to give it more content and more meaning.

Second, the amendment has an exemption for a common database and the information that goes into a common database. In fact, it says a person does not disclose information or share information with an affiliate solely because information is maintained in a common information system or database and employees of the person and its affiliate have access to that common information system or database. That is another provision in the amendment, a major provision, which in fact restrains or restricts the consumer's ability to opt out.

I could go on with this form of analysis, but I have probably given enough to underscore my thoughts. I appreciate the commitment of the two Senators from California, Mrs. FEINSTEIN and Mrs. BOXER, on this issue. They have been champions and leaders on this issue. Many Members have been with them on these matters and presumably will remain with them.

But we are trying to craft a bill to deal with the FCRA. It is not comprehensive. We are dealing with that subject alone. What is in the bill from the committee is a significant improvement over existing law. I don't think there is any question about that. I think there is an arguable case that, in fact, it may provide more protection for the consumer than the amendment that is pending. Therefore, I am supportive of the chairman and his efforts with regard to this issue.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I now move to table the Feinstein-Boxer amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 2054. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. BUNNING) would vote ''yes.''

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

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

The result was announced—yeas 70, nays 24, as follows:

[Rollcall Vote No. 434 Leg.]

YEAS—70

Akaka	Daschle	McCain
Alexander	DeWine	Miller
Allard	Dodd	Murkowski
Allen	Dole	Nelson (NE)
Baucus	Domenici	Nickles
Bayh	Dorgan	Pryor
Bennett	Ensign	Reid
Biden	Enzi	Roberts
Bingaman	Fitzgerald	Santorum
Bond	Frist	Sarbanes
Breaux	Graham (SC)	Schumer
Brownback	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hagel	Smith
Carper	Hatch	Snowe
Chafee	Hutchison	Specter
Chambliss	Inhofe	Stabenow
Cochran	Inouye	Stevens
Coleman	Johnson	Sununu
Collins	Kyl	Talent
Conrad	Landrieu	Voinovich
Cornyn	Lincoln	Warner
Craig	Lott	
Crapo	Lugar	

NAYS—24

Boxer	Feinstein	Leahy
Byrd	Graham (FL)	Levin
Cantwell	Harkin	Mikulski
Clinton	Hollings	Murray
Corzine	Jeffords	Nelson (FL)
Dayton	Kennedy	Reed
Durbin	Kohl	Rockefeller
Feingold	Lautenberg	Wyden

NOT VOTING—6

Bunning	Kerry	McConnell
Edwards	Lieberman	Thomas

The motion was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2059

Ms. CANTWELL. I call up the Cantwell amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself and Mr. ENZI, proposes an amendment numbered 2059.

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

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

The amendment is as follows:

(Purpose: To provide for certain information to be provided to victims of identity theft, and for other purposes)

On page 22, line 6, strike the quotation marks and the final period and insert the following:

''(e) INFORMATION AVAILABLE TO VICTIMS.—

''(1) IN GENERAL.—For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 20 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

''(A) the victim;

''(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim in such a request; or

''(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

''(2) VERIFICATION OF IDENTITY AND CLAIM.—Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, is otherwise able to verify the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

''(A) as proof of positive identification of the victim, at the election of the business entity—

''(i) the presentation of a government-issued identification card;

''(ii) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

''(iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim's request for information, including any documentation described in clauses (i) and (ii); and

''(B) as proof of a claim of identity theft, at the election of the business entity—

''(i) a copy of a police report evidencing the claim of the victim of identity theft; and

''(ii) a properly completed—

''(I) copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(II) an affidavit of fact that is acceptable to the business entity for that purpose.

''(3) PROCEDURES.—The request of a victim under paragraph (1) shall—

''(A) be in writing; and

''(B) be mailed to an address specified by the business entity, if any.

''(4) NO CHARGE TO VICTIM.—Information required to be provided under paragraph (1) shall be so provided without charge.

''(5) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

''(A) this subsection does not require disclosure of the information;

''(B) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or

''(C) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

''(6) LIMITATION ON LIABILITY.—Except as provided in section 621, sections 616 and 617 do not apply to any violation of this subsection.

''(7) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

''(8) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—No provision of Federal or State law (except a law involving the nondisclosure of information related to a pending Federal criminal investigation) prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this subsection.

''(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

''(9) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

''(A) the business entity has made a reasonably diligent search of its available business records; and

''(B) the records requested under this subsection do not exist or are not available.

''(10) DEFINITION OF VICTIM.—For purposes of this subsection, the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, identity theft or any other violation of law.''.

On page 33, line 6, strike ''7'' and insert ''5''.

On page 41, line 19, strike ''(e)'' and insert ''(f)''.

On page 47, line 1, strike ''(e)'' and insert ''(f)''.

Ms. CANTWELL. Mr. President, this amendment is one more addition to the great underlying Fair Credit Reporting Act that would establish a process where business records can be accessed by consumers whose identities have been stolen. I urge my colleagues to support this amendment.

Mr. ENZI. Mr. President, I thank Senator SHELBY and Senator SARBANES for their work. They have put in a lot of time working through different changes in this to make it not only more acceptable but more useful. We appreciate that.

I also want to give special mention to Senator CANTWELL, the Senator from Washington, for her perseverance, for her tenaciousness, for her innovation, and for her flexibility. She did a marvelous job of working on this bill. It is extremely important to the Nation.

This is an extremely critical part of fair credit.

In today's world of digital transactions and online living, nobody is safe from the fastest growing crime in America known as identity theft. Last year alone, the Federal Trade Commission estimated that nearly 10 million Americans were victims of this crime, and each paid an average of $500 in order to repair the damage done by fraudsters and credit abusers. To these millions of American families, $500 means mortgages, car payments, student loans, child support, groceries. In the larger context, $500 per victim means American families and businesses lost more than $50 billion in recovery costs in 2003 alone. That is a $50 billion drag on our economy—an economy that is just starting to bounce back. With the number of identity theft cases increasing at an alarming rate, the economic costs will be even higher next year.

As such, I rise today in support of an amendment that will make it easier for victims of identity theft to recover both economically and emotionally from this devastating crime. This amendment is based on a bill my colleague from Washington and I introduced in both 2002 and 2003. Even though the bill passed unanimously last Congress, we have made a number of changes that I believe greatly improve the legislation. I firmly believe this amendment will provide consumers with the right information and businesses with the right safeguards to facilitate quick and cost effective recovery from identity theft.

This amendment will allow victims to work with businesses to obtain information related to cases of identity theft so they can start reversing the lasting and damaging effects of this crime. In drafting this legislation we have worked with all of the stakeholders to ensure that the needs of both consumers and the needs of small businesses, banks and other credit agencies were addressed.

Our amendment provides consumers with the right to ask businesses for records relating to a transaction evidencing identity theft. Businesses, in return, have the right to ask for specific kinds of identity verification and clear proof that the individual asking for the information is, in fact, a victim and not another fraudster. Also important to note, our amendment does not require businesses, to keep new records or seek out information not in their control. It simply requires businesses to share current records with consumers who can prove they have been victims of identity theft.

I am confident that we have drafted careful legislation that will truly help victims of identity theft recover from this terrible and expensive crime. I commend my colleagues on the Banking Committee who have worked closely with us to make the numerous improvements to this amendment. I urge my colleagues to support it.

In summary, the Federal Trade Commission estimated that nearly 10 million Americans were victims of identification crime and that each paid an average of $500 in order to repair the damage done by the fraudsters and credit abusers. That is $50 billion that is taken out of our economy each year.

This amendment is based on a bill my colleague from Washington and I introduced in 2002 and in 2003. Even though the bill passed unanimously the last time, we have made a number of changes that I believe greatly improve the legislation.

I firmly believe this amendment will provide consumers with the right information and businesses with the right safeguards to facilitate quick and cost-effective recovery from identity theft.

This amendment allows the victims to work with businesses to obtain information related to cases of identity theft so they can start reversing the damaging effect of the crime.

In drafting this legislation, we worked with all of the stakeholders. Our amendment provides consumers with the right to ask businesses for records relating to the transaction. Businesses, in return, have the right to ask for specific kinds of identity verification and clear proof that the individual asking for the information is in fact the victim and not another fraudster.

It is also important to note our amendment does not require businesses to keep records or seek out information not in their control. It simply requires businesses to share current records with consumers who can prove they have been victims of identity theft. I think this will help consumers in a tremendous way.

I appreciate the work Senator CANTWELL has put in on this amendment. This $50 billion drag on the economy can be solved and will be appreciated by consumers.

I thank my colleagues for supporting it and Senators SARBANES and SHELBY for statements on the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the managers are prepared to accept this amendment. I commend Senator CANTWELL and also Senator ENZI for the work they have done in this regard.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, we are happy to take this amendment. I wish to echo the chairman in thanking Senator CANTWELL and Senator ENZI for their work on this important issue. This is an issue they have been addressing for quite some time, and we are very pleased that there are important identity provisions as the bill came from the committee, and I think this is a positive addition.

Mr. SHELBY. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 2059.

The amendment (No. 2059) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2060

Mrs. BOXER. I send an amendment to the desk and ask for its immediate consideration. I am very pleased to say both Senator SARBANES and Senator SHELBY have signed off on this amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mrs. FEINSTEIN, proposes an amendment numbered 2060.

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

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

The amendment is as follows:

(Purpose: To address the duration of certain consumer elections and to define the term ''pre-existing business relationship'')

On page 50, strike line 12 and all that follows through page 51, line 3 and insert the following:

''(3) DURATION.—The election of a consumer pursuant to paragraph (1)(B) to prohibit the sending of solicitations shall be effective permanently, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

''(4) DEFINITION.—For purposes of this section, the term 'pre-existing business relationship' means a relationship between a person and a consumer, based on—

''(A) the purchase, rental, or lease by the consumer of that person's goods or services, or a financial transaction between the consumer and that person during the 18-month period immediately preceding the date on which the consumer receives the notice required under this section; or

''(B) an inquiry or application by the consumer regarding a product or service offered by that person, during the 3-month period immediately preceding the date on which the consumer receives the notice required under this section.

''(5) SCOPE.—This section shall not apply to a''.

Mrs. BOXER. I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor.

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

Mrs. BOXER. Very briefly, this amendment closes what I consider to be a little bit of a loophole in the marketing opt-out provision of the bill. We do two things. The underlying bill says the marketing opt-out expires after 5 years, unless a consumer opts out

again. We make the first opt-out permanent as long as the consumer wants it.

Secondly, the definition of a preexisting relationship with a company, with an affiliate, is drawn in such a way, it is very broad. So what we say is, a person will be deemed to have this preexisting relationship with the affiliate if they have purchased, rented, or leased a service or good from the affiliate during the 18-month period before the information sharing takes place or they have inquired about an affiliate's product in the 3 months before the sharing takes place.

By adopting this simple amendment, we keep financial institutions from violating consumer rights. I am very pleased that both sides of the committee have signed off on this, and I would be happy to take a voice vote on this at this time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the managers are prepared to accept this amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I actually wish to commend the Senator from California because she has introduced some specificity into a provision that is in the committee-reported bill. I am very frank to say I think this will be very helpful, and I join the chairman in supporting the amendment.

Mr. SHELBY. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2060.

The amendment (No. 2060) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2061

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk on behalf myself, Senator BOXER, and Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mrs. BOXER, and Mr. KENNEDY, proposes an amendment numbered 2061.

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

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

The amendment is as follows:

(Purpose: To address restrictions on the sharing of medical information among affiliates, and for other purposes)

On page 81, strike lines 6 through 15 and insert the following: ''to any person related by common ownership or affiliated by corporate control, if the information is medical information, including information that is an individualized list or description based on the payment transactions of the consumer for medical products or services, or an aggregate list of identified consumers based on payment transactions for medical products or services.''.

(c) DEFINITION.—Section 603(i) of the Fair Credit Reporting Act (15 U.S.C. 1681a(i)) is amended to read as follows:

''(i) MEDICAL INFORMATION.—The term 'medical information' means information or data, other than age or gender, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

''(1) the past, present, or future physical, mental, or behavioral health or condition of an individual;

''(2) the provision of health care to an individual; or

''(3) the payment for the provision of health care to an individual.''.

Mrs. FEINSTEIN. Mr. President, this amendment essentially updates the definition of ''medical information.'' It takes a medical definition submitted by the National Association of Insurance Commissioners. It is the definition that is used by a majority of our States. I ask unanimous consent that a letter in support of this definition from the American Medical Association, the American Cancer Society, the California Medical Association, the Community Clinic Consortium, the San Francisco AIDS Foundation, and the AIDS Health Care Foundation be printed in the RECORD.

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

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, November 3, 2002.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the American Medical Association (AMA), we applaud you for your amendment that would improve the medical privacy protections in the National Consumer Credit Reporting System Improvement Act of 2003 (S. 1753).

Your amendment would strengthen the protections in S. 1753 restricting the sharing of medical information for employment, credit or insurance purposes, by broadening the definition of ''medical information'' to ensure that it covers all patient information held by physicians and other health care providers, including mental and behavioral health information.

Thank you for your efforts to protect sensitive patient information in this important legislation.

Sincerely,

MICHAEL D. MAVES, MD, MBA.

AMERICAN CANCER SOCIETY,
Washington, DC, October 30, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the American Cancer Society and its millions of volunteers and supporters, we applaud your efforts to protect patient medical information from improper use or disclosure by employers, insurers or creditors.

Many cancer patients and their families are concerned about the privacy of information relating to their medical care, especially with the increasing use of electronic payments and data keeping. As a result, the American Cancer Society supports a definition of medical information that allows medical research to advance, while at the same time, protects the rights and needs of patients and their family members.

Sincerely,

DANIEL E. SMITH,
National Vice President, Federal and State Government Relations.

WENDY K. D. SELIG,
Vice-President, Legislative Affairs.

CALIFORNIA MEDICAL ASSOCIATION,
Sacramento, CA, October 31, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the California Medical Association and its 35,000 member physicians, we support your efforts to protect patient medical information from improper use or disclosure by employers, insurers or creditors.

Many patients and their families are concerned about the privacy information relating to medical care, especially with the increasing use of electronic payments and data keeping. We support a tight definition of medical information of when such information could be used. Your language accomplishes this while at the same time allowing appropriate utilization for research purposes.

Please let us know if we can do more to support your efforts.

Sincerely,

STEVEN M. THOMPSON,
Vice President, Government Relations.

SAN FRANCISCO COMMUNITY CLINIC CONSORTIUM,
San Francisco, CA, October 31, 2003.

Re The San Francisco Community Clinic Consortium Supports S. 1753, the Medical Information Privacy Amendment to the Fair Credit Reporting Act (FCRA).

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The San Francisco Community Clinic Consortium—an organization of neighborhood health centers serving 66,000 low-income and uninsured San Franciscans—strongly supports the passage of S. 1753, the Medical Information Privacy Amendment to FCRA.

The vague definition of ''medical information'' in FCRA creates loopholes in FCRA protection that could prove harmful to people like our clinic clients with stigmatized diseases like mental illness, HIV/AIDS and long-term chronic conditions. S. 1753 corrects the potential problems and provides the more complete protections that people deserve.

S. 1753 would clarify and strengthen FCRA's definition of medical information. It would also eliminate the false distinction between medical information and medical transaction information. This new definition is critical to protecting the privacy of individuals with chronic illnesses. Even the possibility of breaches of patient medical record confidentiality undermines health care. Patients who know their medical care information could and would be shared with employers, credit organizations and insurance companies will be less forthcoming with their health care providers and, thus, the quality of health care they receive will be compromised; this is neither necessary nor desirable.

SFCCC looks forward to continuing to work with you to protect the essential privacy of individuals' medical and health status information; this is a cornerstone of effective health care. Please call (415 345–4233)

if you need additional information or assistance on this matter.

Sincerely,

JOHN GRESSMAN,
President/CEO.

SAN FRANCISCO AIDS FOUNDATION,
San Francisco, CA, October 29, 2003.

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The San Francisco AIDS Foundation strongly supports the passage of S. 1753, the Medical Information Privacy Amendment to the Fair Credit Reporting Act (FCRA). While the FCRA attempts to protect consumers from having their medical information used for employment, credit or insurance purposes, the vague definition of ''medical information'' in FCRA creates loopholes in the protection that would prove harmful to people living with HIV/AIDS, mental illness and other stigmatized diseases. S. 1753 rectifies the problems in the underlying legislation and provides the protections these consumers require and deserve.

The current definition of medical information in FCRA does not protect the information consumers would supply on documents such as life insurance applications, which ask what medications a consumer is taking. Nor does FCRA protect information obtained without consent. A specific example of this is the reporting of unpaid medical bills from HIV clinics. FCRA does not protect consumers from banks data mining its customers' medical payment transactions to make credit decisions. The majority of U.S. bankruptcies are due to health care costs, which give banks an incentive to determine a customer's creditworthiness based on health. The ties between insurance companies and banks are continuously strengthened as large banks often have hundreds of affiliates, many of whom are also insurance companies. As insurance companies move to electronic forms of payments, they are giving banks large amounts of medical transaction data about their clients. This may include the type of clinic and specific service delivered.

S. 1753 would clarify and strengthen FCRA's definition of medical information and eliminate the false distinction between medical information and medical transaction information. This new definition is essential for people living with HIV/AIDS because it provides them with financial privacy. After more than 20 years of dealing with the epidemic, there is still significant cultural stigma attached to HIV disease. Potential disclosure of medical information and breaches in financial privacy create additional health care access barriers. It is therefore essential that the confidentiality of ones health status and medical information be protected from inappropriate use in employment, credit or insurance purposes.

The AIDS Foundation looks forward to working with you to promote medical information privacy and health status confidentiality. Please do not hesitate to call at 415–487–3096.

Sincerely,

ERNEST HOPKINS,
Director of Federal Affairs.

AIDS HEALTHCARE FOUNDATION,
Los Angeles, CA, November 3, 2003.

Re Letter of support for privacy amendment to S. 1753.

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN:

AIDS Healthcare Foundation (AHF) would like to thank you for sponsoring a legislative amendment to the Fair Credit Reporting Act that will protect the privacy of personal medical information in the form of payments for medical services and products and other transactions. As the United States' largest AIDs organization, and provider of medical care to over 12,000 persons in the U.S., AHF is acutely aware of the need to protect consumers from unauthorized use of data pertaining to their medical treatment. Such information is clearly private, and it is highly inappropriate for it to be used for marketing or similar purposes. Such an abuse can only erode the trust patients have in their medical providers and the medical system in general. Thank you, again, for sponsoring this amendment, which AHF is happy to support.

Sincerely,

CLINT TROUT,
Associate Director, Government Affairs-Federal.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 30, 2003.

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

DEAR SENATOR FEINSTEIN: We applaud you for your efforts to strengthen and improve the medical privacy protections containd in your amendment to expand the definition of ''medical information'' under The National Consumer Credit Reporting System Improvement Act of 2003 (S. 1753).

Although the original bill's medical privacy section includes significant new consumer protections that black-out the use of medical information for employment, credit, or insurance purposes, it includes an inadequate definition of the term ''medical information,'' which could result in creating a loophole that weakens the bill's intended objective. By describing ''medical information'' using the National Association of Insurance Commissioner's (NAIC) definition, which has been agreed upon and implemented by insurance regulators in a vast majority of states, your amendment closes existing loopholes and eliminates the opportunity for unscrupulous use of sensitive medical information.

We also support your amendment because it eliminates the inconsistent differentiation between medical information and medical transaction information, providing greater certainty to the bill's language and to future interpretations of legislative intent. This would be a marked improvement to the underlying bill's definition of medical information, which as currently written does not protect mental or behavioral health information, data provided by consumers on life insurance applications, or medical information obtained without consent, such as the reporting of an unpaid bill from a cancer center. We believe the effect of these harmful oversights can be negated by passage of your amendment.

As you know, millions of consumers worry that their health providers or insurers may be sharing their private information with others. Beyond this concern, however, is a feeling that they have less and less control over their sensitive medical files. Medical information should have no place in employment decisions or credit determinations and related corporate entities should not be able to share it—this information deserves the strongest protection under the law, but beyond that, it is important that we give consumers back some control over who can and cannot use this information.

Both the National Consumer Credit Reporting System Improvement Act and the Fair and Accurate Credit Transactions Act, recently passed by the House of Representatives, contain landmark provisions protecting consumers' private medical information. This amendment builds upon these strides by correcting important deficiencies in the Senate bill, and we strongly urge its adoption by the Senate and its inclusion in the legislation that emerges from the Conference Committee. Again, we congratulate you on your thoughtful and bipartisan amendment, and wish you success in its passage on the Senate floor later this week.

Sincerely,

RAHM EMANUEL,
Member of Congress.
WALTER B. JONES,
Member of Congress.

Mrs. FEINSTEIN. I believe both sides will accept the definition, and I would be happy to take a voice vote.

The PRESIDING OFFICER. Is there further debate?

The Senator from Alabama.

Mr. SHELBY. The managers are prepared to accept this amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I join with my colleague in accepting the amendment. I commend the Senator from California. Actually, medical information is something that people feel very keenly about and the Senator's amendment will strengthen the provision that was in the bill adopted in the committee. We thank her very much for the amendment.

Mr. SHELBY. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2061.

The amendment (No. 2061) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2062

Mr. DURBIN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follow:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2062.

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

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

The amendment is as follows:

(Purpose: To require reporting to national consumer reporting agencies regarding Federal student loans in order to promote the responsible repayment of such loans and ensure the completeness of information contained in consumer credit reports and scores)

At the end of section 312, insert the following:

(c) REPORTS TO CONSUMER REPORTING AGENCIES.—

(1) REPORTS.—Section 430A(a) of the Higher Education Act of 1965 (20 U.S.C. 1080a(a)) is amended to read as follows:

''(a) AGREEMENTS TO EXCHANGE INFORMATION.—

''(1) IN GENERAL.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to

this title or covered by a guaranty agreement pursuant to section 428, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into an agreement with each national consumer reporting agency as described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) to exchange such information as is required by the Secretary concerning each borrower of a loan made, insured, or guaranteed under this title who is served by the Secretary, agency, lender, or holder, respectively, regardless of the default status of the borrower. Such information shall be reported to the agencies regularly, shall be identified as pertaining to such a loan, and shall include any positive or negative repayment information relevant to the borrower.

''(2) OBJECTIONS RAISED BY BORROWERS.—For the purpose of assisting the reporting agencies in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from the reporting agencies, for responses to objections raised by borrowers.

''(3) NONPAYMENT.—Subject to the requirements of subsection (c), such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to the reporting agencies, with respect to any loan under this part that has not been repaid by the borrower—

''(A) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

''(B) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

''(C) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(A) in section 427(a)(2)(G)(i) (20 U.S.C. 1077(a)(2)(G)(i)), by striking ''credit bureau organizations'' and inserting ''reporting agencies'';

(B) in section 428C(b)(4)(E)(i) (20 U.S.C. 1078–3(b)(4)(E)(i)), by striking ''credit bureau organizations'' and inserting ''reporting agencies''; and

(C) in section 430A (20 U.S.C. 1080a)—

(i) in subsection (b)—

(I) by striking ''such organizations'' and inserting ''the reporting agencies''; and

(II) by striking ''(a)(2)'' and inserting ''(a)(3)(B)'';

(ii) in subsection (c)(2), by striking ''such organizations'' and inserting ''the reporting agencies'';

(iii) in subsection (b)(4)—

(I) by striking ''(a)(2)'' and inserting ''(a)(3)(B)''; and

(II) by striking ''credit bureau organizations'' and inserting ''the reporting agencies'';

(iv) in subsection (d), by striking ''credit bureau organization'' and inserting ''reporting agency''; and

(v) in subsection (f), by striking ''consumer reporting agency'' each place the term appears and inserting ''reporting agency''.

Mr. DURBIN. Mr. President, I announced my intention to offer this amendment at an earlier date. Since the announcement of that intention, we have been negotiating with Sallie Mae, the Government-sponsored enterprise which is the largest provider of student loans in the country. The reason for this amendment was a new policy of Sallie Mae, as of a few months ago. In fact, about a year ago Sallie Mae decided to stop reporting repayment information to two of the three major credit bureaus in the United States. It turns out that the Higher Education Act, which governs Sallie Mae, required that defaults on student loans be reported to all three national credit bureaus but, by regulation, positive repayment information only went to one.

As a consequence, many responsible students who had paid off their student loans were not provided the credit information on their own backgrounds so that it was clear that they paid off their loans. So these students who had turned to a credit bureau for a mortgage or a loan on a car would have an outstanding student loan. It worked to their disadvantage. This decision by Sallie Mae worked a terrible disadvantage to students who had done the right thing.

I made it clear to the chairman, Mr. SHELBY, as well as Senator SARBANES, that I thought this was an injustice that needed to be corrected. Fortunately for me and for the students involved, Sallie Mae has sent a letter. I understand Chairman SHELBY, if I am not mistaken, has received a copy of this letter from Sallie Mae; is that correct?

Mr. SHELBY. If the Senator will yield, we do have a copy of the letter from Sallie Mae.

Mr. DURBIN. I ask unanimous consent this letter be printed in the RECORD.

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

SALLIE MAE, INC.,
Washington, DC, November 4, 2003.

Hon. RICHARD C. SHELBY,
U.S. Senate, Committee on Banking, Housing and Urban Affairs, Washington, DC.

Hon. PAUL S. SARBANES,
U.S. Senate, Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATORS SHELBY AND SARBANES: I am writing to update you on how Sallie Mae reports the credit performances of our customers to the national credit bureaus.

Our goal is to ensure that our customers get the credit they have earned. To that end, we have been reporting to one of the national credit bureaus all along, as required by law. When we learned recently that one of our borrowers has not had full access to his credit history, we began negotiating again with the other two credit bureaus so that we could resume reporting to them.

I am pleased to let you know that following extensive discussions with the other two credit bureaus, Sallie Mae has agreed to resume reporting to them and will provide each with credit information for our customers. We will keep you and your staffs apprised as we move forward in implementing this decision.

We are pleased that the credit bureaus are being responsive to our concerns and we look forward to working with them. Thank you for your interest in this important issue. Please feel free to contact me if you have questions or need additional information.

Sincerely,

ROSE DINAPOLI,
Vice President, Government & Industry Relations, Sallie Mae.

Mr. DURBIN. The letter makes it clear that Sallie Mae is reversing its position; that from this point forward they will report repayment of student loans to all three major credit bureaus. This is what my amendment sought to achieve, so I am going to withdraw this amendment and thank both Senator SHELBY and Senator SARBANES for their cooperation and urge them to join me in offering an amendment to the Higher Education Act which codifies in law this new policy that the Sallie Mae agency has now decided to implement.

There is no reason responsible college students, having paid off their loans, should be penalized because Sallie Mae refuses to notify all three major credit bureaus in America. I am glad with this letter they have decided to change their policy. I hope at a later time to offer this amendment to the Higher Education Act and thank the members of the committee for their cooperation in this regard.

Mr. DURBIN. Mr. President, Section 312 of the bill before us is entitled ''Procedures to enhance the accuracy and completeness of information furnished to consumer reporting agencies.'' My Responsible Student Amendment addresses exactly that: the completeness of information furnished to consumer reporting agencies. My amendment is designed to ensure that young Americans who have positive credit histories established by responsibly repaying their student loans will be able to take a clean shot at the American dream when they try to buy their first home. It does so simply by requiring what until recently was standard practice for student loan providers; regular reporting on all loan repayments to each of the three major credit bureaus.

Until recently, responsible repayment of student loans was rewarded as would be expected, with a positive credit history. Responsible repayment was responsibly reported by student loan providers, in the typical fashion, to all three major credit bureaus. One of those providers, the biggest, is Sallie Mae. Sallie Mae was founded in 1972 as a government-sponsored enterprise, GSE. In 1997, the company initiated the privatization process. Sallie Mae, in other words, was born and raised on the taxpayers dime. One might hope that it would therefore feel some responsibility to keep taxpayers' interest in mind.

About a year ago, however, Sallie Mae, by far the largest provider of Federally guaranteed student loans, suddenly stopped reporting repayment information to two of the three major credit bureaus. It turns out that The

Higher Education Act, which established the Federal student loan program, requires that defaults on student loans be reported to all three national credit bureaus, while positive repayment information only has to go to one. Is this the way we want to reward responsible repayment of student loans? Don't we want a system that rewards responsible repayment, rather than one that shrugs and says that that information doesn't matter?

What is the result of Sallie Mae not reporting to two of the three major credit bureaus? Thousands of young people—whose main or only use of credit has been their student loans from Sallie Mae—suddenly have major gaps in their credit histories. Stories in the Washington Post and the American Banker have described the case of one typical 31 year old, named Eric Borgeson. Mr. Borgeson is an architect who lives in Edwards, CO. Mr. Borgeson, who graduated from college 10 years ago, had a perfect credit repayment record on his three Sallie Mae loans. Then, midway through the home-buying process, his credit score dropped by 40 points. Sallie Mae had pulled his perfect repayment records from his credit reports with two of the three major credit bureaus. As a result, he ended up with a lower credit score and a significantly higher interest rate on his mortgage, that he estimates will cost him nearly $200 more per month in interest payments.

Why has Sallie Mae stopped reporting to two of the three major credit bureaus? The answer is simple: prescreened lists. Credit bureaus typically sell lists of their customers, prescreened to meet certain criteria based on the information in their credit reports. Sallie Mae's competitors were using such lists to offer Sallie Mae's customers better deals. Rather than meet the competition, Sallie Mae simply decided to pull its customers' information from bureaus that wouldn't agree to stop selling pre-screened lists.

Sallie Mae claims that it is simply protecting its customers from unwanted solicitations. Sallie Mae knows, however, that there is a toll free phone number people can call to keep their name off of such prescreened lists. If it really was concerned about protecting its customers from unwanted credit card solicitations, it could simply publicize that number: 888–567–8688.

The group of consumers in question here is a unique group of consumers. Just starting their careers, still paying off their loans: if there is any group of consumers that benefits from competition among loan providers and consolidators, this group is it. This is a group that often wants to hear from Sallie Mae's competitors. Those still repaying their student loans may get offers from consolidators who will combine all their loans and charge a lower overall interest rate. Those who have finished repaying their student loans are often establishing homes, careers, and families and therefore using credit cards more than average users. They, therefore, may benefit from being able to compare the credit card package they have with the offerings of competitors.

By trying to shield its customers from competing offers, Sallie Mae does them a disservice twice: it punches a big hole in their credit histories, resulting in higher rates on mortgages and other new loans, and it prevents them from learning of better deals for other financial services. Each of these alone could cost consumers thousands of dollars.

My amendment prevents that from happening. It amends the Higher Education Act by adding the word ''each,'' requiring reporting to each of the major ''consumer reporting agencies''—credit bureaus—and making clear that both positive and negative information should be accurately reported.

Responsible repayment of student loans should be rewarded by inclusion in accurate and complete credit histories. This amendment will ensure that result.

AMENDMENT NO. 2062 WITHDRAWN

I need no further time. I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

Mr. SARBANES. Mr. President, I commend the able Senator from Illinois because he saw a problem and fastened on it and as a consequence, we at least have a solution, at least at the regulatory level. I understand the Senator may well pursue it statutorily, although Sallie Mae is not under the jurisdiction of our committee, as he understands.

I share his concern. I think this was an unacceptable situation which existed. Because of the actions of the Senator from Illinois and also the Senator from Wisconsin, Mr. KOHL—who also took a keen interest in this issue—I think we have the resolution of it. I appreciate the Senator's action.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I take a minute to commend Mr. DURBIN, the Senator from Illinois, for his good work in this area. He has recognized this as a very important issue and has done something about it. Whether it is Sallie Mae or anybody else, what we are interested in is all the reporting we can get that would affect someone's credit. I again commend Senator DURBIN for the work he has done. I am sure he will follow up and make sure this is part of the law.

Mr. DURBIN. Mr. President, I thank my colleagues. My colleague, Senator HERB KOHL, shares my feeling on this issue and introduced a similar amendment and joins with me in saluting this change and making it clear we are going to move forward.

Mr. KOHL. Mr. President, I rise today to join Senators DURBIN, SHELBY and SARBANES in expressing our concern about an issue that could affect countless graduates who work hard to pay off their student loans.

A little over a year ago, Sallie Mae—one of the largest originators of student loans and the largest secondary market for student loans—made a quiet decision that had a huge impact on college graduates.

Sallie Mae refused to report student loan repayment histories to two out of three major credit reporting agencies. That means graduates—most of whom have good records of paying on their student loans—have huge holes in their credit histories holes that prevent them from establishing credit or getting the best rates to buy their first home.

I recognize that our credit reporting system is essentially voluntary. There is no legal requirement that any private business report information to any credit bureau. However, Sallie Mae is an exception. U.S. Department of Education regulations require Sallie Mae to report student loan credit report histories to at least one of the three major credit reporting agencies.

Until last year, they reported to all three agencies. Then, Sallie Mae decided to stop reporting to two of the agencies. Some say they stopped because those two agencies routinely sold lists of Sallie Mae customers to competitors who could offer better deals. Sallie Mae maintains that they were protecting their customers from unwanted solicitations.

Whatever the reason, the result is clear: students who have worked hard to complete their education are hurt by this policy. Graduates entering the workforce and attempting to establish credit—even those who may have excellent records paying off their student loans—end up with incomplete credit records. On that basis alone, they may be denied credit.

This is a significant problem. Leaving out positive credit information on student loans can lead to a lower credit score for consumers. Lower credit scores penalize consumers in the form of higher credit card and mortgage interest rates, more expensive insurance, and even the risk of being excluded from the marketplace altogether.

Sallie Mae's decision has been especially detrimental to new home buyers. Mortgage credit is generally based on a merged credit report which incorporates information from all three credit repositories. It can only provide an accurate credit history if all three reports are complete.

The Washington Post recently highlighted the story of a 31-year-old architect who applied for a mortgage to buy a new house. Because Sallie Mae did not report his years of on-time student loan payments to all the credit bureaus, his credit score dropped 40 points—and his mortgage rate increased 1.5 points—costing him $200 dollars more per month in interest payments.

After learning of this problem last month, I have been in touch with Sallie

Mae to urge them to resume full credit reporting to all three of the major credit reporting bureaus. I have also been in touch with the chairman and ranking member of the Banking Committee, and with Senator DURBIN. I appreciate their willingness to work with me to ensure that student loan repayment histories are fully reported to all the major credit bureaus.

I am especially pleased that today, Sallie Mae announced that they have reached agreement with the credit bureaus and will now begin reporting to all three once again. I appreciate their efforts to work with our offices to solve this problem and ensure that their customers get the credit they have earned. I commend Sallie Mae for doing the right thing and fixing this problem promptly.

This is truly a positive step forward, but I think we should take one more at the appropriate time. Congress should codify these new agreements in law by requiring Sallie Mae to report to all three major credit bureaus. This will guarantee graduates that their student loan payment histories will always be reported and their credit scores will be complete. It will make sure that we do not face further problems in the future.

Senator DURBIN and I have both been working on amendments that would do just that. While I will not offer an amendment on this bill, I look forward to working with Senator DURBIN, Chairman SHELBY, and Senator SARBANES to address this issue in the future.

Mr. REID. Mr. President, I know the two managers are on the floor. I want to bring to their attention that Senator CANTWELL has been waiting to speak for some time on an amendment which was adopted. If you could work them into the order, I would appreciate it.

Ms. CANTWELL. Mr. President, my colleague from Wyoming and I tried to accommodate Members who were here in the last few minutes, trying to get several amendments adopted.

I want to spend a few minutes going into more detail about the Cantwell-Enzi Restore Your Good Name Act that has been incorporated into the Fair Credit Reporting Act.

I would first like to thank the chairman and ranking members of the committee for their strong support of this underlying bill that has been incorporated, along with the last amendment that we just voted on by voice a few minutes ago, dealing with business records.

It was roughly 2 years ago that the chairman of the Banking Committee and I spoke at a national platform for the attorneys general of America to address the issue of privacy and some of the biggest challenges to privacy at that time. We both made known our view that this country needed stronger legislation in the area of identity theft.

I commend the chairman and the ranking member for their strong step forward, a really critical step forward, to protect Americans from what is the fastest growing crime in America—identity theft.

Unfortunately, even though the Senate passed the Cantwell-Enzi legislation last year, the House failed to act on it and the number of victims has continued to grow. In fact, 9 million Americans have been the victims of identity theft. This underlying bill incorporates some of those good ideas that my colleague from Wyoming worked so hard on in the Banking Committee and that we worked through the Judiciary Committee to pass. I certainly commend my colleague, Senator ENZI, for his dedication to this issue. Consumers in America are going to be more protected because of his efforts. It has been a pleasure to work with him on these challenging issues, to make sure those protections are put in place.

The underlying bill that we have passed changes the framework by which consumers can now restore their good name and protect their identity. It does so, first and foremost, as Senator ENZI and I suggested, by formulating an affidavit process. So many people in America are victims of identity theft. But I can tell you this: it is not a crime for which you can call 911 and get immediate response. The biggest problem, once you are a victim of identity theft, is proving that you are in fact the person whose identity has been stolen.

I like to say that, in the case of the perpetrator who steals your television set right out of your living room, chances are that he is somewhere in the neighborhood. But the crime of identity theft could involve someone anywhere in the country, or for that matter, outside the United States, working with a ring.

So part of what we are trying to do, first and foremost, is to give victims and law enforcement tools to help victims reclaim their identity. The affidavit process that now must be accepted by business owners and credit agencies as proof that you are a victim of identity theft is the first step in making sure that your credit record is corrected and perpetrators are prevented from continuing to ruin your credit.

Second, the credit provisions that Senator ENZI was successful in getting added in committee represent a tremendous step in solving the problem that so many Americans face when their identity is stolen—that the perpetrators continue to pose as them, running up large credit bills.

In the case of a constituent I recently met in Washington State, the perpetrator who stole the constituent's license succeeded in buying five different vehicles. My constituent has continued to be a subject of investigation by law enforcement as she has tried to prove that it was, in fact, her identity that was stolen, that she was the victim. So a critical part of this legislation is the fact that individuals will be allowed to go to a credit agency and get that information blocked so that their good name is restored.

The amendment that we just adopted deals with another aspect of this problem, which is getting access to business records. Law enforcement in the State of Washington have been very successful at dealing with crimes of identity theft because identity thieves are often criminals who are involved in larger activities. There is a high correlation between people who are involved in identity theft—who use that stolen identity to get access to cash and resources in the State of Washington—and people who are involved with methamphetamine production. These criminals are involved in both drug activity and identity theft.

With this amendment, police can now get access to business records. Any victim, or law enforcement official acting on behalf of the victim, will have access to business records within 20 days after the victim provides identification, an affidavit and a police report to the business. This gives consumers a real tool to correct the harm caused them by this crime. This is a very fundamental part of this bill.

The last aspect of the identity theft bill that is part of the amendment we just agreed to deals with the statute of limitations. In the 2001 Supreme Court case of TRW v. Andrews, the Court ruled that the statute of limitations in these cases runs for 2 years from the time the crime is committed. But what we have found is that some victims of identity theft don't even realize they are victims until a year or 2 years after the identity theft has occurred. The statute of limitations therefore impacted the ability of victims to get justice. The underlying amendment we just agreed to extends the statute of limitations to give victims of identity theft 5 years from the time the crime was committed.

This underlying bill with the amendment we just agreed to represents a critical first step in dealing with one of the most important issues I think we will deal with in this information age, which is the issue of privacy. While this body has tried to deal with this issue in myriad ways by protecting the financial and health records of individuals, and by making sure that either opt-in or opt-out legislation have been cleared with consumers, I think we have much more work to do in the area of privacy. But you can be sure the Fair Credit Reporting Act before us today and the Cantwell-Enzi amendment and language adopted with it take a very positive step in dealing with one of the biggest privacy threats to Americans today—identity theft.

With these tools, law enforcement and individual consumers whose identities have been stolen will have the tools to make the process of reporting and resolving identity theft go smoother. While some may have said businesses would oppose the underlying amendment, or some of the features of the Cantwell-Enzi amendment, businesses have seen record losses of $22

billion a year from identity theft, and they have joined in this effort to make sure we pass strong national legislation.

I again thank Senator SARBANES and Senator SHELBY for their hard work, and certainly Senator ENZI for his effort and his stewardship in making sure we have good legislation in the process that can go on to passage and that will better protect consumers in America.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from New York.

Mr. SCHUMER. Thank you, Madam President.

I thank Chairman SHELBY and Ranking Member SARBANES for the wonderful job they did on this legislation. An important measure such as this that sails through the floor in 1 day is a tribute to the statesmanlike and fine legislative hand of our new chairman of the Banking Committee and, of course, the steady and wise old hand of our former chairman of the Banking Committee and now the ranking member.

I have been ready to offer an amendment on an issue related but not directly on point to this legislation; that is, debit cards. Right now, millions of Americans use debit cards. They are great. You don't need a checkbook when you have a debit card. It solves many problems. It is a real measure of convenience. They are easy and they save a little time. You don't have to go to the bank and get cash. It is a win-win, except for one catch: Most consumers think when they pay with a debit card it is free; that it doesn't cost anything. However, many banks are now charging the consumer when he or she uses the debit card as much as $1.50. In my State of New York, about half the banks charge anywhere between 25 cents to $1.50. When I have asked consumers, they don't know. My wife didn't know.

What I want to do is what I did in the House on credit cards and what I was able to do here in the Senate with ATMs—not eliminate the fees, because that is up to each bank but, rather, disclose them.

There are a couple of problems with disclosure. One is because it is not the banks that own the machines—the ATMs—rather, it is the stores.

It is a little more difficult to get that information out to the consumer even when the consumer swipes the card. What we have done here is ask the Federal Reserve to within 6 months study this issue and show us how it can be done.

In addition, there is another point our amendment has that we ask the Federal Reserve to study; that is, at least putting it on the monthly bank statement in clear letters what the fees are for debit cards. That is not done now. There are kids in college who were mailed these cards, and they used them to buy a Coke. The Coke was a dollar. The fee was a dollar. If they knew it cost $1, they probably wouldn't do it anymore.

I would like to engage in a colloquy with the chairman of the committee.

As the chairman knows, after a long fight Congress enacted legislation so that every ATM—no matter if it is run by a bank or private operator—tells you when you are being charged. Customers have come to know and expect that warning. But there is no warning when you use your card at a store and use it as a debit card. As often as not, you are charged. Is that correct?

Mr. SHELBY. If the Senator will yield, I understand the concerns. I think it is also true that debit card transactions and ATM transactions have some significant differences. Namely, the retailer owns the debit machine while the bank owns the ATM machine. This makes a ''point of sale'' disclosure—as we achieved in Gramm-Leach-Bliley—more difficult since banks cannot easily adjust the equipment and the software.

Mr. SCHUMER. I ask unanimous consent that the letter the chairman, the ranking member, and myself are submitting to the Federal Reserve Board be printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, November 6, 2003.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR CHAIRMAN GREENSPAN: We are writing to request a study by the Board of Governors of the disclosure of fees imposed by financial institutions on consumers in debit card transactions. Our request is outlined in the attached document.

As you know, consumers are increasingly using debt cards as an alternative to cash or credit cards. In 2001, there were estimated to be over 250 million bank cards in circulation with a debit function, and today it is estimated that debit payments make up almost 12 percent of retail payments. The reasons for this growth are clear. Debit cards offer convenience for consumers, and they offer substantial cost savings for banks through more efficient electronic processing.

Debit cards can be used by a consumer in two ways. In an online transaction, the consumer enters his/her personal identification number (PIN), and the debit occurs through an electronic transfer of funds over a local debit network, e.g., InterLink or Plus, from the consumer's bank to the merchant's bank. In an offline transaction, the consumer signs his/her name on a receipt, and the transaction occurs over a MasterCard or Visa network linked to the bank.

However, depending on how the consumer chooses to use his or her debit card, banks charge and make different amounts of money. In an offline transaction, banks charge a merchant from approximately 1.5 percent to 1.99 percent of the total value of the transaction, similar to credit card transactions that utilize the Visa or MasterCard networks. For example, in a $100 transaction, the merchant would be charged up to $2.00 for the processing of the transaction over the Visa or MasterCard network. In an online transaction, banks charge the merchant a flat fee of about thirty cents.

As those numbers illustrate, banks typically make more money when consumers use their debit cards in the offline or credit card-like function. In fact, it has been estimated to us that in a typical transaction banks make three to four times more money on offline transactions than on online transactions.

In part to make up for this revenue differential, banks have introduced new debit card fees in the form of a charge to the consumer for each PIN-based, online transaction he or she makes. This fee comes on top of the flat fee already charged to the merchant.

However, the consumer may be unaware of these fees at the time of the purchase. He or she has no explicit disclosure of the fee at the point of sale, and no option to accept or deny the additional charge, or to pay cash or use a different payment to avoid the fee. The evidence of the debit car fee shows up only later on the consumer's monthly bank statement. The debit card fees are published together with ATM fees, making it difficult for the consumer to distinguish or understand the charges. Many consumers end up calling the retailer to complain about the fee in the mistaken belief that it was the retailer, not their bank, that initiated the charge.

The growth of debit cards and the rise in debit cards fees makes this an important issue. The number of parties involved in the debit cards transactions—retailers, consumers, electronic payment networks, and banks—makes this a complex issue. As always we appreciate your support and the diligence and expertise of the staff at the Federal Reserve Board in helping us to consider and to address the disclosure of debit cards fees to consumers.

Sincerely,

RICHARD SHELBY,
Chairman.
PAUL SARBANES,
Ranking Member.
CHARLES SCHUMER,
United States Senator.

Mr. SCHUMER. Mr. Chairman, I know you have been in support of the Feds doing the study so we can see what to do next year in terms of legislation; I ask if that is amenable to you?

Mr. SHELBY. Absolutely. Senator SARBANES and I agree with Senator SCHUMER and support further study of this issue. We have planned and drafted a letter to the Federal Reserve Board asking them to conduct a comprehensive review of this issue.

Mr. SCHUMER. I ask the ranking member for his views on this letter and what we have to do in terms of disclosure on debit cards.

Mr. SARBANES. I share the chairman's view. I think the Senator from New York has spotlighted a very important issue, but probably the best way to proceed now is with this joint letter to the Federal Reserve. Then we would have the benefit of their study of this issue as we move ahead to try to address it.

Mr. SCHUMER. I thank the ranking member. We will make progress on debit cards. I will not go into all the details of the study. The letter is quite detailed. The Federal Reserve is willing to do it.

I make two other points after commending my colleagues on the bill overall. I am proud to be a cosponsor and supporter of this bill. There are two parts of the bill in which I was particularly interested. One is identity theft which has become an epidemic.

When your identity is stolen, it can take years to bring back your credit rating, even through no fault of your own. The criminals are getting very good at identity theft.

I introduced comprehensive legislation in this regard much earlier this year. The chairman has added provisions very similar to those I have introduced. As a result, this bill does a good job. Right now, becoming a victim of identity theft is as easy as saying your ABC's. With this legislation, it will be tougher.

My hometown, New York City, has the unfortunate distinction of being the identity theft capital of the world. I am glad we were able to do something quickly in that regard.

Second, on credit scoring, this is another issue on which the Senator from Colorado and myself worked long and hard. We thank the chairman and ranking member for incorporating that into the legislation.

The bottom line is, consumers have been kept in the dark about what their credit score is and how it is computed. This legislation, by adding the Schumer-Allard provision, lifts the veil of secrecy over credit scores. When a bank is going to charge you more for your mortgage, which could mean hundreds and hundreds of dollars every quarter, much more money every month, now you will be able to find out why and if there is incorrect information as to why you are being charged more. Maybe it is because you have a whole lot of credit cards, for instance, even if you pay your bills on time. You will be able to correct it.

This is fine legislation. I am speeding things along here because I know people want to move quickly. I thank the chairman.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 2064

Mr. CORZINE. Madam President, I have a couple of general remarks about the overall legislation and I have an amendment at the desk which I call up, No. 2064.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE] proposes an amendment numbered 2064.

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

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

The amendment is as follows:

(Purpose: To require financial institutions and other users of consumer reports to provide notice to appropriate Federal agencies in cases in which consumer information is compromised)

On page 16, line 25, strike the period at the end and insert the following: ''; and

''(C) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to notify the Federal Trade Commission (and any other agency or person that such rulemaking agency determines appropriate) in any case in which there has been, or is reasonably believed to have been unauthorized access to computerized or physical records which compromises the security, confidentiality, or integrity of consumer information maintained by or on behalf of that entity, except that such regulations shall not apply to a good faith acquisition of information by an employee or agent of such entity for a business purpose of that entity, if the information is not subject to further unauthorized access.''.

Mr. CORZINE. I understand the amendment will be agreed to by both of the managers but let me first say that this amendment is about disclosure of breached customer data that may exist in our system. Frankly, 85 percent of businesses that have sophisticated computer systems have identified breaches in their system. My amendment asks for the reporting of those breaches to the FTC so we can get a database and understand it.

Mr. SHELBY. Madam President, the managers are prepared to accept the amendment offered by Senator CORZINE. It is a good amendment and makes a lot of sense.

Mr. SARBANES. The amendment of the Senator from New Jersey makes a positive contribution to this legislation. I am certainly happy to accept it.

I also thank the Senator for all the work he did in the committee on so many provisions in this legislation. He had a major hand in shaping the bill. I deeply appreciate that.

Mr. CORZINE. I appreciate that recognition.

The reality is the chairman and ranking member showed great stewardship and leadership to get this bill in a position where it has broad support in this body. It is going to make a big difference in the financial marketplace for consumers.

Both the reauthorization and additional elements embedded in this bill have truly improved our credit system, which is already the finest in the world. I thank the ranking member. I want to make sure the chairman knows that I appreciate the bipartisanship, the cooperation, and comity that has accompanied the framing of this bill. I very much appreciate the inclusion of the disclosure of breached consumer data as part of the bill.

There are some elements of this bill that I will highlight that others have given emphasis to. It is particularly important to strengthen the controls on personal, financial, and medical data in this bill; however, nothing is more important, in my view, than someone having the ability of requesting a credit file on themselves from the credit agencies once a year. People ought to be able to understand how they are being viewed in the system, if ever they are going to correct issues. That, to me, is one of the most important controls.

Very much to the credit of the ranking member, there is emphasis on promoting financial literacy embedded in this legislation that creates a real foundation for how we can talk to the general public, teach the principles of proper financial management, which is one of the most important elements in individual personal finances. When citizens find they are on the short end of their credit reports and they are in court to solve a bankruptcy, they wish they had learned more in school regarding managing personal finances.

The identity theft issue, which is part of why I have offered the breached customer data amendment, is so important. This is an epidemic in our society. The number of breaches, the number of extraordinary cases of individual pain that has come from people breaching our technologically connected world today is overwhelming. The protections we have started to talk about—fraud alerts, limitations on transfer of debt, and this free credit report a year—will go a long way toward trying to shape it up.

We could go further in this area, in my own view. As the Senator from New York discussed, this is an important piece of legislation. I wish we had done a little more to control the use of financial information, particularly among affiliates in some of our most complex organizations where there are 1,000 or 1,500 affiliates, some spread out but not as broadly controlled as some Members might think relative to what I know is in the case of the world financial markets.

But that said, this is a fine piece of legislation. The manager and ranking member should be congratulated, as should all of the members of the committee, including the Presiding Officer.

With that, I will yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, has that amendment been disposed of?

The PRESIDING OFFICER. It has not.

Is there further debate?

If not, the question is on agreeing to amendment No. 2064.

The amendment (No. 2064) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have spoken to the two managers of the bill, and at this stage it appears we have two amendments left, both from the Senator from Wisconsin, Mr. FEINGOLD. He has agreed, with the permission of the managers, to offer one amendment, then offer the next amendment, and debate both those amendments at the same time; and then we would vote on both amendments following his debate on both amendments and, of course, the adequate response from the managers of the bill.

Senator FEINGOLD is here and he is in agreement with that, so we do not need a unanimous consent agreement, but

people should understand what he intends to do at this time, and what we intend to do.

Following that, it is my understanding, from speaking to the two managers, there are no other amendments. I think there may be a statement or two that Senators wish to give on the bill, but other than that, I know of no substantive amendments.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I would anticipate we would be ready to go to final passage. I think we can move fairly quickly. I know Senators have conflicting demands on them, and we are trying to move along.

Mr. REID. Madam President, I have a statement that will take about 3 or 4 minutes that I will give at some time.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 2065

Mr. FEINGOLD. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2065.

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

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

The amendment is as follows:

(Purpose: To provide for data-mining reports to Congress)

At the appropriate place, insert the following:

SEC. ___. DATA-MINING REPORTING ACT OF 2003.

(a) SHORT TITLE.—This section may be cited as the ''Data-Mining Reporting Act of 2003''.

(b) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(c) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the department or agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that will be used.

(B) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(C) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(D) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(E) A list and analysis of the laws and regulations that govern the information to be collected, reviewed, gathered, and analyzed with the data-mining technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(F) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(G) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the technology. If no such procedures are in place, a thorough explanation as to why not.

(H) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be—

(A) submitted not later than 90 days after the date of the enactment of this Act; and

(B) updated once a year and include any new data-mining technologies.

Mr. FEINGOLD. Madam President, the Fair Credit Reporting Act was designed to make sure that personal financial information about consumers is fairly maintained and accurately reported by credit agencies and provided only to the appropriate people. Maintaining the privacy of the consumer is one of the central objectives of the Fair Credit Reporting Act. My amendment will ensure that the Federal Government is not overstepping its role in obtaining and using this highly personal information.

My amendment will require all Federal agencies to report to Congress on the practice of datamining but it would not impose any limits on the use of datamining. This amendment will provide the American people with critical information about the use of datamining technology and the way highly personal information, such as credit reports and other financial information, is obtained and used by our Government.

The untested and controversial intelligence procedure known as datamining is capable of maintaining extensive files containing both public and private records on each and every American. Periodically, after millions of dollars have been spent, we learn about a new datamining program under development. Congress and the public should not be learning the details about these programs only after millions of dollars are spent testing and using datamining against unsuspecting Americans.

Coupled with the expanded domestic surveillance undertaken by this administration in the wake of September 11, the unchecked development of datamining is a potentially troubling step that threatens one of the most important values that we are fighting for in the war against terrorism; and that, of course, is freedom. My amendment would simply require all Federal agencies to report to Congress within 90 days and every year thereafter on datamining programs used to find a pattern indicating terrorist or other criminal activity and how these programs implicate the civil liberties and privacy of all Americans. If necessary, information in the various reports can be classified.

The amendment does not end funding for any program, determine the rules for use of the technology or threaten any ongoing investigation that uses datamining technology. All it does is ensure that Congress has complete information about the current datamining plans and practices of the Federal Government. With this information, Congress will be able to conduct a thorough review of the costs and benefits of the practice of datamining on a program-by-program basis and make considered judgments about which programs should go forward and which ones should not.

My amendment would provide Congress with information about the nature of the technology and the data that will be used. The amendment would require all Government agencies to assess the efficacy of the datamining technology and whether the technology can deliver on the promises of each program. In addition, the amendment would make sure that the Federal agencies using datamining technology have considered and developed policies to protect the privacy and due process rights of individuals and ensure that only accurate information is collected and used.

Congressional review and oversight is necessary in order to find out whether and how Government agencies, such as the Department of Homeland Security, the Department of Justice, and the Department of Defense, plan to collect and analyze a combination of intelligence data and personal information such as individuals' traffic violations, credit card purchases, travel records, medical records, communications records, and virtually any information contained in commercial or public databases. Through comprehensive data mining, everything from people's

video rentals or drugstore purchases made with a credit card to also their most private health records could be fed into a computer and monitored and reviewed by the Federal Government.

Using data mining, the Government hopes to be able to detect potential terrorists. There is no evidence, however, that data mining will, in fact, prevent terrorism. Data mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past events like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman, and child into a giant computer, we should learn what data mining can and can't do and what limits and protections are needed.

We must also consider the potential for errors in data mining. Most people don't even know what information is contained in their credit reports. Subjecting unchecked and uncorrected credit reports to massive data mining makes the prospect of ensnaring many innocents very real. If a credit agency has data bout John R. Smith on John D. Smith's credit report, even the best data mining technology might reach the wrong conclusion.

Most Americans believe that their private lives should remain private, especially from the Government. Data mining programs run the risk of intruding into the lives of individuals who have nothing to do with terrorism but who trust that their credit reports, financial records, shopping habits and doctor visits would not become a part of a gigantic computerized search engine, operating without any controls or oversight.

The executive branch should be required to report to Congress about the impact of the various data mining programs now underway or being developed, and the impact those programs may have on our privacy and civil liberties so that Congress can determine whether the proposed benefits of this practice come at too high a price to our privacy and our personal liberties.

Some may argue that this amendment does not belong in the bill before us. I respectfully disagree. As we consider legislation dealing with individuals' credit reports and their financial privacy, I think it is both relevant and important that we find out whether and to what extent the Government is reviewing databases containing highly personal information.

So I urge my colleagues to support this very simple reporting amendment. All it asks for is information to which Congress and the Americana people are entitled.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I intend to oppose this amendment and all amendments that are not within the four corners of the Fair Credit Reporting Act legislation.

The committee spent a great deal of time, as the Presiding Officer knows, as a distinguished member of the Banking Committee, carefully considering the reauthorization and reform of the Fair Credit Reporting Act national standards.

The committee bill is carefully crafted, and it balances protecting consumer interests and ensuring the efficiency of our credit markets.

The committee bill was unanimously approved, as the Presiding Officer knows, by a voice vote in the committee, which is hard to get. It was unanimous.

Extraneous amendments, I believe, alter this balance and focus and threaten our ability to maintain the strong, bipartisan consensus necessary to pass this important legislation this year.

As a result, the managers of the bill—Senator SARBANES and I—intend to oppose including this amendment and all non-Fair Credit Reporting Act-related amendments, regardless of their merit. This might have some merit, but I think it can be better served at another place on another day.

At the proper time, I will move to table the amendment. Right now, I yield to Senator SARBANES.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, if I could respond briefly to the chairman, first, I congratulate the chairman and ranking member for putting this bill together. I intend to support it. I am pleased to support it. I recognize the managers had to achieve a balance, and they do not want to disrupt that balance.

I think I can pretty confidently assure my colleagues that a mere reporting requirement by Federal agencies could not possibly upset the balance they have so skillfully achieved. So I would argue in the case of this amendment—and my second amendment, which is also only about Federal Government reporting information—that it does no violence to what they have achieved and actually is, in this case, very consistent with the purposes of the bill that have to do with people's privacy of their financial records.

So I urge the chairman and ranking member to consider that this would be different from many other amendments that could upset the balance.

Mr. SARBANES. Madam President, I understand the data mining amendment encompasses the legislation which the Senator introduced and which is pending in the Judiciary Committee, if I am not mistaken. At least I am informed of that. So it is not within the scope of the work of our committee, I say with all due respect to the Senator.

I share some concerns about the issues he is raising, and I think they are worth paying attention to. But we have tried very hard to deal only with amendments that are relevant to the Fair Credit Reporting Act. A number of Members on both sides of the aisle, upon hearing that, have refrained or withheld from offering amendments that are outside that parameter, and we are very grateful to them for doing that. Obviously, it has enabled us to move this legislation along.

I think we have had a very open process in dealing with amendments that affect the provisions of the FCRA. We tried to keep it open and I think, in a sense, we have bent over backward to do that. But we have tried to dissuade the offering of amendments that are outside that scope.

I think this amendment falls into that category, and therefore I will be supportive of the chairman in the statement he made. This is not to speak to the substance of the Senator's amendment in any developed way; I assure him of that. But it seems to me this is not within the scope of what we do in the Banking, Housing, and Urban Affairs Committee.

Mr. FEINGOLD. Madam President, I will briefly respond with great respect. There were a number of other amendments with great substance that I would have very much wanted to offer, but did not in the spirit of trying to make sure nothing of great moment occurred on this bill. These are merely reporting amendments.

I understand the Senator's point. These are amendments that could have been possibly accepted; they are not particularly controversial. In any event, I respect what the managers have had to do in order to get the bill through.

I am prepared to move on to the next amendment, unless they want to continue to debate this. If the managers prefer, we could move on in the next amendment.

Mr. SHELBY. Madam President, I move to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SHELBY. Madam President, I ask unanimous consent that the vote be deferred temporarily.

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

AMENDMENT NO. 2066

Mr. FEINGOLD. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2066.

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

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

The amendment is as follows:

(Purpose: To require a report to Congress regarding Federal acquisitions of American-made products)

At the end of title VII, add the following:

SEC. 712. BUY AMERICAN REPORT.

(a) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the head of

each Federal agency shall submit a report to Congress on the amount of the acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States in that fiscal year.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall separately indicate—

(1) the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States;

(2) an itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.); and

(3) a summary of the total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States.

(c) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under subsection (a) shall make the report publicly available by posting on an Internet website.

Mr. FEINGOLD. Madam President, I have come to this floor on several occasions this year to discuss the crisis in American manufacturing and some steps that I think Congress should take to stop the flow of manufacturing jobs overseas.

One step that I believe we should take to support American manufacturers is to ensure that the Federal Government buys American-made goods whenever reasonably possible. Congress enacted such a policy when it passed the Buy American Act of 1933. This law was enacted to ensure that the Federal Government supports domestic companies and domestic workers by buying American-made goods.

However, the Buy American Act includes a number of waiver provisions which allow agencies to buy foreign-made goods in certain defined circumstances. I am concerned that agencies may be using these waiver provisions to get around the spirit, if not the letter, of the law. That's why, earlier this year, I introduced the Buy American Improvement Act, which would strengthen the existing act by tightening its waiver provisions.

Unfortunately, it's virtually impossible to get hard numbers on the Federal Government's purchases of foreign- and domestic-made goods. Under current law, only the Department of Defense is required to report annually to Congress regarding its use of waivers of the Buy American Act and its corresponding purchases of foreign-made goods. As for other agencies, there is no real disclosure or accountability in the waiver process.

I think that Congress and the public should know how taxpayer dollars are being spent, and that's what my amendment would do. The amendment is very simple and, I hope, noncontroversial. It would just require all Federal agencies to prepare an annual report that details their purchases of foreign-made goods. That's it. It would not make any changes in the Buy American Act; that law and its waiver provisions would remain the same. All that would change is that we would all know whether the Buy American Act is working.

My amendment would require that the annual report to be submitted by agency heads include the following information: the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States; an itemized list of all applicable waivers granted with respect to such articles, materials, or supplies under the Buy American Act; and a summary of the total procurement funds spent by the Federal agency on goods manufactured in the United States versus on goods manufactured outside of the United States. The amendment also requires that the heads of all Federal agencies make these annual reports publicly available on the Internet.

Some may argue that this is a burdensome requirement. The truth is that it is similar to the reporting requirement that the Defense Department complies with every year. If the Pentagon, with its many procurement contracts, can report to Congress annually on its purchases of goods, so too can all other Federal agencies.

I am pleased that this amendment is supported by an array of business and labor groups including the AFL–CIO, Save American Manufacturing, the U.S. Business and Industry Council, and the International Brotherhood of Boilermakers.

Madam President, 2.5 million American manufacturing jobs have been lost since January 2001. The current unemployment rate is 6.1 percent. The stagnant economy and continued loss of high-paying manufacturing jobs underscore the need for the Federal Government to support American workers and businesses by buying American-made goods. This amendment is a modest step toward that goal.

I understand that the managers will oppose this and all amendments that are deemed to be non-relevant to the bill. I respect their prerogative to do so. I would have preferred to offer this important amendment to another bill. But opportunities to offer amendments have been few and far between this year, and it is the right of all Senators to offer amendments. I hope that my colleagues will not oppose this amendment simply because they do not feel it belongs on this particular bill. The question is not whether this amendment belongs on the bill; the question is whether it is good law. I think it is and I hope others will agree.

The American people deserve to know how their tax dollars are being spent, and to what extent these dollars are being used to support foreign jobs. I urge my colleagues to support American companies and American workers by supporting this amendment.

I yield the floor.

Mr. SHELBY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CARPER. Madam President, as we approach the end of actually a rather short, abbreviated debate on this legislation, I want to say a few words encouraging my colleagues to join the Presiding Officer, myself, and our respective Republican and Democratic floor managers in supporting this measure.

Let me begin by saying to Chairman SHELBY and our ranking Democrat, Senator SARBANES, that I think it is rather remarkable that we have come through the deliberations of the past year. We had extensive, balanced hearings on this legislation that gave people from all sides of the issue the chance to comment on what they would like to see us do with respect to reauthorization of the Fair Credit Reporting Act.

This is the way the process is supposed to work. We have a deadline, and that deadline is to act by December 31. Our chairman and ranking Democrat have orchestrated a series of hearings, as I said earlier, which allowed financial institutions to come in, allowed consumer groups to come in, and other folks—rank-and-file citizens—to share with all of us on the Banking Committee how they think we ought to proceed.

We did not have one hearing; we have had a whole series of hearings. I think what emerged from those hearings is a consensus that we aspire to have, but all too rarely see. I am proud to be part of this process, and I suspect the Presiding Officer feels the same way.

Our national credit granting standards that are created under the Fair Credit Reporting Act allow all Americans quick and easy access to credit, whether it is to purchase a home, to purchase a car, or any number of other consumer goods. There is compelling evidence that failure to reauthorize the expiring provisions of the Fair Credit Reporting Act would have significant economic consequences, and not very positive ones.

I am pleased to say that the legislation before us today extends these uniform standards. It makes them permanent. We avoid any adverse impact on our national credit granting system, and we avoid any negative impact on our national economy.

The legislation before us also makes a number of improvements to current law. I think this is an important point. It is one made by others, but I want to make it again. Earlier this year, the Federal Trade Commission released a survey indicating that millions of consumers have been victimized by the crime of identity theft. My own family understands how disruptive and devastating this crime can be, as one of our relatives in your State, Madam President, was victimized over a period of several years by identity theft. It

was an awful experience for her and not a pleasant one for her family.

The bill before us responds to this increasing trend by requiring the creation of a system of fraud alerts. This system of fraud alerts allows the victims of identity theft and also allows active duty military personnel to flag their credit reports for potential fraud. For example, if a consumer believes they have been the victim of identity theft, then that consumer can make one call and have a fraud alert put on his or her credit report. The alert will notify users of that report that this consumer could be the victim of a fraud. This alert, in turn, requires the users of this report to take extra steps before establishing new credit or establishing a credit limit.

In the year after the fraud alert is placed in the file, a consumer will be able to receive not one, but two free credit reports to make sure the information in their credit report is correct. In addition, consumers will have the ability to block information on their credit report that is the result of identity theft.

Importantly, the bill increases the maximum penalty for those who commit the crime of identity theft.

This legislation also gives consumers more control over the information that is contained in their credit reports. First of all, consumers will have easy access to a free credit report on an annual basis. This is a significant right that will allow consumers to review the information contained in their credit report and to make corrections to it.

To ensure consumers are aware of these rights, the Federal Trade Commission must actively publicize how consumers may obtain a free credit report and how to dispute information contained in that report.

I oftentimes use the analogy of if a tree falls in a forest, there is nobody there to hear it. My colleagues have probably heard that; probably used it a time or two. In this case, if a consumer has the ability to obtain a free copy of their credit report annually, but they don't know they have that right, is there a benefit that inures from this legislation?

In the legislation, we put the onus on others and the Federal Trade Commission to publicize how consumers can obtain a free credit report.

In addition, the bill gives consumers important protection for their medical information. One of our colleagues on the floor today was asking if they deal with a particular financial institution, a company that has access to some of the medical data, can they then share medical data with other affiliates of that company?

The answer is no; that is protected and prevented by this legislation. This bill prohibits the use of medical information in the credit granting process. In addition, as I just said, the legislation creates a system for consumer reporting agencies to code medical information so that someone looking at a credit report cannot discover a consumer's medical history.

Finally, the bill before us establishes the Financial Literacy and Education Commission. I believe this is an essential part of the legislation—it may not have gotten a lot of credit, but it is an important part of this bill—because a lot of consumers in this country have no knowledge or at least limited knowledge of how our credit system works. This new commission will be charged with reviewing financial literacy efforts throughout the Government to eliminate duplicative efforts. Importantly, the Commission will also coordinate the promotion of Federal financial literacy efforts, including outreach among State, and local governments, nonprofit organizations, as well as private enterprises.

This legislation creates many new tools for consumers. I have mentioned some of them. But if consumers lack basic financial literacy, they may not be able to use these tools with the kind of effectiveness that is intended.

Again, let me go back to where I started. We have seen this year a number of occasions when legislation has come to the floor without going through committee. We have seen legislation come to the floor for our consideration, sometimes rather complex legislation, and it has not had the benefit of the hearings it should have. The system has worked in this case: excellent hearings, the ability for us as Democrats and Republicans to work together to receive a whole lot of input from a broad cross-section of people and interest groups in this country, the ability to bring a bill out of committee on a unanimous voice vote. This is legislation that I think is going to be disposed of today.

I am proud to at least have been a small part of that process and pleased to lend my support. I urge my colleagues to do the same for this legislation.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, this is my opportunity to say a word or two about the National Consumer Credit Reporting System Improvement Act.

We always hear about how divided the Senate is and how divided we are politically, that there is so much partisanship. My experience indicates that when there is something that really is extremely important that needs to get done, we do it.

As I look back, there was the terrorism insurance, which was difficult to do, but in a bipartisan method we stepped forward and did that. We had significant problems after 9/11 with the airline industry. It was difficult to do, but we stepped forward with legislation that in fact allowed the airline industry as we know it in America to continue.

Fair credit reporting is an important issue, and the two sides have joined together. I think one reason we were able to do this was the experience and the abilities of the two managers of this bill. The Senator from Maryland has heard me brag about him on many occasions. He is a person of great intellect, a Rhodes scholar, someone who is very quiet. But whenever Senator SARBANES speaks, everyone should listen because he does not speak impulsively. He is aware of every word he says. His being the ranking member on this Banking Committee every day gives me comfort because it is an area of the law that I do not fully understand.

I have never been on the committees of jurisdiction that deal with these most important issues. This committee has wide-ranging jurisdiction. It deals with certainly much more than banking—housing, mass transit.

I also say, as I said this morning earlier about my friend from Alabama, the distinguished chairman of the committee, he is a fine legislator. We on this side of the aisle always look forward to the senior Senator from Alabama being part of legislation. Everyone in the Senate is a person of their word. I do not know anyone in the Senate, of the 99 other Senators, whose word we cannot trust.

The Senator from Alabama certainly is a man of his word, but the reason I have such great admiration for him is that he is willing to listen. He is willing to listen to someone who disagrees with him.

That this legislation arrived at the point it has, is the result of two fine legislators working through the committee system and reporting a bill to the Senate. This bill is proof that with enough hard work and commitment, we can move substantive, quality legislation through the Senate. Again, I applaud and commend the two managers of this legislation.

I have personally spent some time on this legislation, working with Members trying to work out an arrangement to allow us to have the bill on the floor today. We have been able to do that. We have worked to limit the number of amendments. The majority leader originally said he would not accept the agreement that we had. There were more amendments, so we went back and worked and whittled down the amendments. As a result of that, we were able to bring this to the floor.

I am very happy to see us moving this bill forward. It is very close to passage. It is an excellent example of what we can accomplish when Members make a dedicated effort to pursue a reasonable compromise. This legislation is not what Senator SARBANES wants, it is not what Senator SHELBY wants; it is what the committee wanted. They had to work with their Members. It is a compromise. Legislation is the art of compromise. That is not a bad word. That is the only way we can get legislation passed—consensus building—and they have done that.

This legislation will help safeguard the security of consumers' credit data

at the same time it guarantees those consumers rapid, widely available, and inexpensive credit.

It is a win for the people all over Nevada. It's a win for a family in Elko who receives a better mortgage rate because a mortgage bank can be confident about the information in the parents' credit history. The family pays a lower rate for their mortgage and, as a consequence, will pay thousands less over the lifetime of the loan, and that money can be redirected toward childcare, college, a family vacation.

It is a win for the used car dealer in Reno, or anyplace else in Nevada, who receives more complete and reliable information about prospective buyers. He can review an applicant's credit history and feel greater confidence about the degree of risk he is assuming when he extends credit to his customers.

It is a win for the public who will receive better protection than ever before against identity theft.

The United States has the lowest cost, most effective consumer credit market in the entire world, due in part to the Fair Credit Reporting Act. This bill will preserve and extend the best elements of this law and add important new provisions and make it even better.

In closing, I am glad to see that our hard work negotiating this legislation has paid off with a solid bill, and I look forward to seeing consumers and business reaping the benefit of this legislation for years to come.

Mr. CARPER. Will the Senator from Nevada yield for just a moment?

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

Mr. CARPER. The Senator from Nevada has again heaped praise on our chairman and our ranking Democrat, as others of us have done, and that is important. I failed to mention this in my remarks and I want to atone for that omission now, that we are blessed with wonderful staff, as we all know, on both the Republican and the Democratic sides, and on the subcommittee and the full committee. I want to take a moment to also express my thanks to them and say to my own counsel, Margaret Simmons, who has done great work on this bill, a special thank you. None of us do this stuff by ourselves, as we all know. In this case, we have been greatly assisted by their efforts.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 2066 WITHDRAWN

Mr. FEINGOLD. Madam President, with regard to the second amendment I offered concerning the reporting for the Buy America Act, at this time I will withdraw the amendment, with my appreciation to the chairman for his interest in the matter, and I defer to his comments.

Mr. SHELBY. If the Senator will yield, I believe that is a good amendment. I think it ought to be in other legislation. I am going to work with Senator FEINGOLD. We all want to promote jobs in America. We believe the American worker can produce anything as well as, if not better than, any worker in the world. If we promote Buy America, I think we are saying something to our workers and our industry and our economy down the road, notwithstanding what others will argue.

So I commend the Senator from Wisconsin for bringing this up tonight. We are going to continue to work on this and try to put it in the proper legislation, where it is going to go somewhere.

Mr. FEINGOLD. Madam President, I thank the Senator from Alabama for his important statement to finally make some progress in strengthening the Buy America Act. I look forward to working with him on this matter.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. FEINGOLD. My understanding is the Senator intends to table my other amendment.

The PRESIDING OFFICER. The motion to table is pending.

Mr. SHELBY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2067

Mr. SHELBY. Mr. President, on behalf of Senator NELSON of Florida, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] for Mr. NELSON of Florida, proposes an amendment numbered 2067.

The amendment follows:

(Purpose: To ensure proper disposal of consumer information and records derived from consumer reports)

At the end of title II, add the following:

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following:

"§ 627. Disposal of records

''(a) REGULATIONS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Federal Trade Commission shall issue final regulations requiring any person that maintains or otherwise possesses consumer information or any compilation of consumer information derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

''(2) EXEMPTION AUTHORITY.—In issuing regulations under this section, the Federal Trade Commission may exempt any person or class of persons from application of those regulations, as the Commission deems appropriate to carry out the purpose of this section.

''(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect any requirement imposed under any other provision of law to maintain any record.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by this Act, is amended by adding at the end the following:

''627. Disposal of records.''.

Mr. NELSON of Florida. Mr. President, most companies are required to adopt rules to ensure the proper disposal of a consumer's private financial records. I learned last year, before comprehensive privacy regulations took effect, that some companies do not have protocols in place outlining the proper way to dispose of private consumer information when it is no longer needed. Last year, thousands of files containing sensitive customer records were discarded in a dumpster. If the wrong person came across these files, he or she would have had everything necessary to commit numerous crimes, including identity theft.

Since this incident, the company has acted to correct its privacy policies and the Federal Trade Commission issued its safeguards rule. The rule applies to credit reporting agencies and financial institutions that maintain consumer records and also contains guidance for businesses, which includes the storage and proper disposal of records.

Although check-cashing businesses, ATM operators, real estate appraisers, and even couriers are covered by the safeguards rule, rental property companies that assess the creditworthiness of tenants and businesses that maintain consumer accounts, such as cell phone companies and utilities, are not covered by the rule.

Improper disposal of a credit report could compromise driver's license information, Social Security numbers, employment history and even bank account numbers. My amendment will close the loophole and further protect credit information by requiring the Federal Trade Commission to issue regulations regarding the proper disposal of consumer credit information.

Mr. SHELBY. Mr. President, Senator SARBANES and I have reviewed the amendment. We have no objection to the amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I support this amendment. Senator NELSON of Florida has focused on an important issue involving the disposal of consumer financial records. We commend the amendment to our colleagues.

Mr. SHELBY. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2067) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—H.R. 1904

Mr. REID. Mr. President, there has been a lot of talk the last few days and different offers by the majority to go to conference on the Healthy Forests initiative and a number of other pieces of legislation. For the majority to say that going to conference is the only way to legislate between the two Houses is really, for lack of a better description, a bogus argument. Almost every day both Houses pass legislation for which a conference is not appointed. As I mentioned earlier today, just last night the Senate passed H.R. 3365, the Fallen Patriots Tax Relief Act. We amended it and sent it back to the House without asking for conference.

On other measures, we have done the same thing—H.R. 1584, H.R. 1298, H.R. 733, H.R. 13, H.R. 4146, and H.R. 659 just to name a few.

If there is any concern about holding up legislation, we believe the shoe fits the majority. The Healthy Forests initiative is something that needs to be done. We cannot understand on this side why the leadership has refused to send the bill to the House; that is, H.R. 1904, the Healthy Forests initiative, which passed here overwhelmingly just a few days ago. The House may not want to go to conference. They may like our legislation or they may want to amend it and send it back. But at least we ought to give the House this opportunity rather than holding the bill hostage. That is what is happening now. By refusing to send it to the House, the majority is holding the bill hostage.

I ask unanimous consent that the enrolling clerk be directed to immediately send H.R. 1904, which is the Healthy Forests initiative, as amended by the Senate, to the House of Representatives.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, what is the regular order at this time?

The PRESIDING OFFICER. The regular order is the motion to table amendment No. 2065.

Mr. SHELBY. I believe the Senator from Wisconsin has an amendment pending.

Mr. DASCHLE. Mr. President, before the Senator from Alabama moves to table, first of all, I know we are getting close to the end of deliberations on this bill. I think that it merits broad bipartisan support.

I appreciate very much the efforts that have been made by the chairman and ranking member. Both Senators have worked very closely together to get it to this point. Obviously, there are outstanding issues that still have to be resolved. We have a couple of amendments.

I wanted to take a moment—I didn't realize we were this close to having the vote on the amendment itself—to draw a distinction in this legislation.

Obviously, because of the extraordinary effort that has been made on both sides to work together and the assurances I have been given by the chairman that it is not his intention to conduct a conference that would not involve the ranking member and members of the minority with regard to this bill and issues to be resolved in conference, I will recommend to our caucus that we move forward with a conference on this bill. I wish I could say that with regard to other legislation, but we have not been given the same assurances. We are not at that point yet. But in this case, we certainly intend to work with our colleagues and with the chairman in particular. I applaud him for his efforts and thank him for the kind of working relationship that our two colleagues have. It is a tribute to both of them. I acknowledge that prior to the time we take our vote.

Mr. SHELBY. Mr. President, I would like to respond to the Democratic leader.

First of all, we have gotten to where we are tonight on the Fair Credit Reporting Act coming out of the Banking Committee by working together in a bipartisan way. Senator SARBANES and the Democrats on the committee have been involved in the formulation of this legislation as so many members of the Banking Committee have. That is why we are here today. That is why we believe we have put together a far-reaching, very complex piece of legislation. We are going to continue—assuming this bill passes and goes into conference—to work together because that is the only way we are going to pass this legislation. This legislation, the Fair Credit Reporting Act, would expire at the end of this year. We know we are working on a deadline. We are working on a good piece of legislation. We want to continue that.

I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I simply want to observe that we had a fair and open working relationship in the committee in bringing the legislation forward. All Members participated from both sides. I would expect that same relationship to then continue in the conference committee. We have been dealt fairly by the chairman. I presume we will continue to be dealt fairly by the chairman. I just wanted to add that perception to this relationship.

Mr. DASCHLE. Mr. President, with that explanation of our circumstances involving this bill, as I say, we will not object to going to conference. I wish our colleagues well as we finish our work on this legislation before the end of the year.

I yield the floor.

Mr. SHELBY. Mr. President, if it is proper at this time, I move to table the Feingold amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is agreeing to the motion to table amendment No. 2065. The yeas and nays have already been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting, the Senator from Kentucky (Mr. BUNNING) would vote ''yes.''

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator form Connecticut (Mr. LIEBERMAN), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''no.''

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

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 435 Leg.]

YEAS—61

Alexander	Daschle	Landrieu
Allard	DeWine	Lincoln
Allen	Dole	Lott
Baucus	Domenici	Lugar
Bennett	Ensign	Miller
Bond	Enzi	Murkowski
Breaux	Fitzgerald	Nelson (NE)
Brownback	Frist	Nickles
Burns	Graham (SC)	Pryor
Campbell	Grassley	Roberts
Carper	Gregg	Rockefeller
Chafee	Hagel	Santorum
Chambliss	Hatch	Sarbanes
Cochran	Hollings	Sessions
Coleman	Hutchison	Shelby
Collins	Inhofe	Smith
Cornyn	Inouye	Snowe
Craig	Johnson	
Crapo	Kyl	

Specter	Sununu	Voinovich
Stevens	Talent	Warner

NAYS—32

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	McCain
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham (FL)	Reed
Cantwell	Harkin	Reid
Clinton	Jeffords	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kohl	Wyden
Dayton	Lautenberg	

NOT VOTING—7

Bunning	Lieberman	Thomas
Edwards	McConnell	
Kerry	Nelson (FL)	

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I would like to take a few moments to thank some of the staff who did outstanding work on the Banking Committee—Kathy Casey, chief of staff of the Banking Committee; Doug Nappi, our general counsel; Mark Oesterle, one of our counsel.

I also thank some of the Democratic staff who worked with us on this: Steve Harris, who is Democratic chief of staff; Marty Gruenberg; Lynsey Graham Rea, and Dean Shahinian. They have all worked together in a bipartisan fashion. I believe that is why this legislation was brought out of the committee unanimously and we will be able to pass it, because we had a lot of input from Members and committee staff on both sides of the aisle. It makes a difference.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I echo the chairman in expressing my deep appreciation to the staff people he enumerated: Kathy Casey, Doug Nappi, and Mark Oesterle on the Republican side, and Steve Harris, Lynsey Graham, Dean Shahinian, and Marty Gruenberg on the Democratic side.

We are fortunate in the Banking Committee that we have a very committed, able, dedicated staff on both sides of the aisle. Furthermore, they have been able to work with one another in a very productive and cooperative fashion. The chairman and I are keenly aware of the fact of how much we rely upon them, and we want them to know how much we appreciate their terrific effort, which was reflected in this legislation and in many other matters with which the committee deals.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I ask unanimous consent that the vote occur on passage of the bill on Wednesday—tomorrow—with no intervening action or debate, at a time determined by the majority leader, after consultation with the Democratic leader. Further, I ask unanimous consent that following that vote, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, with a ratio of 4 to 3. I also ask unanimous consent that S. 1753 then be returned to the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—H.R. 2673

Mr. STEVENS. Mr. President, I ask unanimous consent that following morning business on Wednesday, the Senate proceed to the consideration of H.R. 2673, the Agriculture appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, there is no objection. The persuasiveness of the chairman of the committee allays any fears Senator DASCHLE and I had of proceeding to this appropriations bill. We look forward to having as few amendments as possible. We hope to find out how many amendments we have even tonight. It would be good to get them to the cloakroom. We will be on this probably around 10:30 tomorrow morning.

Mr. STEVENS. Mr. President, I echo what the assistant minority leader said in making that request. We know of some amendments that are out there. We believe we can finish the bill tomorrow if we apply ourselves to the task.

I yield the floor.

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

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for as much time as I may consume.

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

INTERNET TAX NON-DISCRIMINATION ACT OF 2003

Mr. ALEXANDER. Mr. President, the distinguished occupant of the chair and I are new Members of the Senate. There are a great many privileges to being here, and one is the congeniality to new Members of the Senate. One is the seriousness of the issues with which we deal these days. One is the great traditions in the Senate. But there is a very special privilege of being here, and being here tonight, which I realize, and that is this: Every single one of us as Americans someday, sometime, while sitting at home or on our job, may suddenly realize something about our Government that really stirs us up and we wish we could say something and do something that somebody would hear. We are angry about it, we are upset about it, we want to say something about it. I have a privilege as a Member of the Senate of being able to do just that tonight.

Nothing used to make me more upset as the Governor of Tennessee for the 8 years I was Governor than when Members of this distinguished body and the other distinguished body—Members of Congress—would get together and come up with some great idea and pass a law and tell us to do it, and then send us the bill requiring us to pay for it, even though they were printing money up here and we were balancing budgets at home.

The distinguished occupant of the Chair was mayor of a great city for 8 years, I believe, the same amount of time as I was Governor. I know he must have felt the same way.

It might have been the case in terms of storm water runoff. Somebody in Washington, like the EPA, the Environmental Protection Agency, in that case may have said sometimes when it really rains hard, the water gets mixed up with the sewage and it runs into the river, so we need to fix that situation.

Great idea, but who is going to pay the bill? I tell you who pays the bill. In Minneapolis, you have to raise the property tax, or in Nashville, you have to raise the sales tax. Or in Maryville, TN, you have to fire some teachers so you have enough money to do the storm water runoff.

I remember back in the mid-1970s, about the time I was getting into politics, the Members of Congress decided we needed to help children with disabilities. We are all for that. That is a wonderful idea. But at the time, the Federal Government was paying, as it is today, about 7 percent of all the costs of elementary and secondary education in America. Most of that is paid for by Minnesota and Tennessee taxpayers through income taxes, and sales taxes, and property taxes that are raised at home.

The Congress said, ''Help the children with disabilities,'' but they didn't pay the bill. So what happens. I meet with the Shelby County School Board in Memphis. What do they say to me? We have this huge, terrific cost and these orders from Washington and regulations about what to do, and then we have to take money we raise, that we would otherwise be spending for other purposes, and deal with the good idea from Washington, DC.

I have heard many Members of this body talk a little bit about No Child

Left Behind and the new provisions in that bill, wondering whether those are unfunded Federal mandates, a Washington word that if you boil it down to plain English means: We will do it up here in Washington; we will claim credit for it, but you pay the bill.

On Thursday, thanks to the generosity of the majority leader in a very busy week, the Senate has agreed to consider whether we will impose yet one more unfunded Federal mandate on State and local governments, and I refer specifically to the proposal to extend the ban on State and local authority to tax access to the Internet.

In advance of that vote, which will occur in the next few days, I want to discuss three basic considerations with my colleagues.

No. 1, some of my colleagues have seemed surprised when I suggested the proposed ban on State and local Internet taxation is an unfunded Federal mandate. Let me say exactly in these remarks why the proposed ban on State and local ability to tax Internet access is an unfunded mandate plainly in violation of the Unfunded Mandates Reform Act of 1995 which was passed by this body with 91 votes, and 63 Senators who voted to ban unfunded Federal mandates in 1995 are still Members of this body. In 1994, over 300 Republican candidates stood on the steps of the U.S. Capitol and said in the Contract With America: We will stop passing unfunded Federal mandates, and if we break this contract, throw us out. That is why, when this legislation is offered later this week, I plan to offer a point of order against its consideration because the Unfunded Mandates Reform Act of 1995 says that it is out of order for this Senate to pass an unfunded Federal mandate. The first thing I want to describe why this proposed ban on Internet taxation is an unfunded Federal mandate.

No. 2, I want to discuss a strange case of amnesia that seems to have enveloped this distinguished body, a strange disease that has caused many Members to forget, as I mentioned a few moments ago, that in 1995, at the beginning of the 104th Congress, the new Senate majority leader, Bob Dole, went down to Williamsburg, VA, and promised Republican Governors that ''The first bill in the Senate, S. 1, is going to be unfunded mandates.''

This is especially surprising because Senator DOLE was good to his word and, in fact, the second plank of the Contract With America that was enacted in this Congress was the ban on unfunded mandates. It was at the heart of the Contract With America. It was at the heart of the Republican revolution in 1994.

At that time, I was campaigning across this country in 1994. Nothing I found made local officials and citizens madder than Washington politicians who pass unfunded mandates, claiming credit without facing the costs, whether it was the legislation I described involving children with disabilities, storm water runoff, or highly qualified teachers. As a result, 91 Senators voted for the Unfunded Mandates Reform Act of 1995, and 63 of those Senators are still here today.

No. 3, I would like to discuss an amendment I will be proposing. I am filing tonight an amendment I call the Unfunded Federal Mandate Reimbursement Act. If a majority of the Senate should decide that banning State and local taxation of the Internet is important enough to create an unfunded Federal mandate—that is, claim the credit up here, but make it be done down there—then my amendment would provide a way for Congress to pay the bill for that by authorizing our Department of the Treasury to reimburse Tennessee and Minneapolis and other State and local governments each year for the cost of this new mandate.

Let me say briefly what we are talking about and what we are not talking about. We are not talking about the issue of whether to authorize States to require out-of-State companies, such as L. L. Bean, that sell by catalog or Internet, to collect the same Tennessee sales tax that Friedman's Army Surplus Store would collect when it sells me a red-and-black plaid shirt. That is an entirely different piece of legislation. The Senator from Wyoming and others have sponsored that legislation. The Senator from North Dakota is a part of that. We are not talking about making it easier to collect sales tax from Internet and catalog companies.

What we are talking about is whether Tennessee and other States can collect a sales tax from an Internet service provider when it connects my computer to the Internet, just as it collects sales tax from the telephone company when it connects my telephone or from the cable TV company when it connects my TV. Tennessee has been collecting this tax since 1996. Nine other States and the District of Columbia also collect a tax on Internet access.

The Knoxville News Sentinel had an excellent article on Sunday putting this into perspective. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Knoxville, News Sentinel]

INTERNET'S TAXING ISSUE

STATE, SERVICE PROVIDERS WAGE FIGHT OVER SALES TAX ON WEB ACCESS

(By Larisa Brass)

Pull out your monthly Internet bill and take a look at the bottom line.

See a sales tax charge? Maybe, maybe not.

Nearly a decade after the Internet's debut, the argument still rages in Tennessee over whether online connections should be taxed like your telephone bill or your cable service.

The State says wording of its tax code implicitly includes Internet access as a telecommunications service subject to sales tax. A number of Internet service providers disagree, however, saying that Internet access amounts to an information, not communications, service and is not subject to tax.

The argument has landed the Department of Revenue and six Internet Service Providers, or ISPs, in court.

Five cases—two involving AOL and three against CompuServe, Earthlink and AT&T—are now in litigation in Davidson County Chancery Court. One case involving Prodigy is awaiting review by the Tennessee Supreme Court.

A number of disputes between the Department of Revenue and other service providers have not yet reached the courts, although the department won't say how many or which companies are involved.

Tennessee officials say they should be getting $18 million in revenue on Internet access sales taxes each year. In reality, the State's Department of Revenue reports collections of half that amount.

For a State in dire financial straits, that isn't pocket change. Add it up over the past seven years—the State began pursuing collections in 1996—and you get about $60 million.

That's enough to fund the Department of Revenue for a year or pay 1,600 teachers' salaries. In the next five years, the state estimates it could lose $109 million in uncollected revenues.

On one side, the Department of Revenue argues that Internet access should be charged as a telecommunications service because it falls under the state's definition of ''telecommunications.''

That definition is: ''communications by electric or electronic transmission of impulses, including transmission by or through any media, such as wires, cables, microwaves, radio waves, light waves or any combination of those or similar media.''

But Internet services providers argue that the term ''telecommunications'' doesn't apply to them at all.

When the State began to actively collect sales tax on Internet access ''the department simply didn't understand how ISPs work and that ISPs have never been considered telephone companies,'' said Henry Walker, a Nashville lawyer whose firm represents AOL and Planet Connect, a Kingsport-based Internet service whose dispute with the Department of Revenue has not yet reached the courts.

''(ISPs) don't sell telecommunications services,'' Walker said. ''They sell access to the Internet, and that's different.''

Internet providers simply sell access to information, he explained, not a communications service. He compared it to dialing a 1-900 number, saying that users already pay tax on the phone service and aren't charged separately for using that service to access information at the other end.

STATE VS. ISP

In the Prodigy case, the trial court and ultimately the Tennessee Court of Appeals agreed.

The court found that the intent of state lawmakers, when drafting the telecommunications tax code and the definition of telecommunications used by the Federal Communications Commission, supported Prodigy's claim that it should not have to collect sales tax on its service.

In addition, the court said that because telecommunications was not the ''true aim'' of Prodigy's service and because customers must supply their own, taxed telephone service to connect to Prodigy's servers, that the Internet connection should not be taxed as a telecommunications service.

Last month, the Department of Revenue appealed the ruling to the Tennessee Supreme Court.

''We think the court was wrong,'' said Loren Chumley, commissioner of the Tennessee Department of Revenue.

In a brief filed by the Tennessee attorney general on Oct. 9, the state argues Prodigy's services do ''fall squarely within the definition'' of telecommunications, according to Tennessee law, by providing access to ''the Internet, chat rooms, e-mail and information services.''

The state argued that Internet service should be taxed even though it was not explicitly included in the law.

''With all due respect to the Court of Appeals, the plain language of this statute should not be read narrowly to include only those technologies that existed when the statute was enacted,'' the filing stated, ''but should be read to incorporate new technologies, including Internet access and e-mail services such as those provided by Prodigy.

''. . . Only by giving statutes their full effect can the law keep up with technological advances.''

In addition, the state argued that the Court of Appeals should not rely on the FCC's definition of telecommunications and that to do so is to contradict another state appeals court decision holding ''that federal regulatory statutes should not affect the interpretation of state taxation statutes.''

The Department of Revenue is awaiting the state Supreme Court's decision on whether it will take the case.

Walker admits the issue isn't black and white. He agrees that many people use the Internet for communication, such as placing online orders or using Internet chat rooms or instant messaging.

And, he said, there may be a place for taxing some types of Internet communications, such as voice over Internet protocol, which allows a customer to set up home phone service via the Internet.

But ''at this point in time, the FCC has said, 'No, that's not telecommunications, that's information services,''' Walker said. ''I thought (state officials) were on shaky ground from the get-go, and I think the court shut the door pretty hard.''

TO TAX OR NOT TO TAX

In any case, the days of taxing Internet access appear to be numbered.

Tennessee is one of 10 states that, along with the District of Columbia, now collect sales tax on Internet access charges. They can do so because they were grandfathered into a law passed by Congress in 1998 known as the Internet Tax Moratorium.

The legislation forbade the collection of state Internet access taxes unless a state was collecting the taxes before the federal moratorium was passed.

Two bills now in Congress would end the state's ability to collect those taxes. One bill now stalled in the Senate would allow states to phase out the taxes within three years. The House version, already passed, would end the tax immediately.

Right now, states like Tennessee are more worried about provisions of the bill they say would end taxes on a broad array of telecommunications services and cost Tennessee $360 million in annual sales tax collections.

But Chumley said Tennessee stands to lose out, at least in the short-run, if the tax is abolished. The state is moving toward a streamlined sales tax system that would allow it to collect more taxes on the sale of goods via Internet companies, many of which are not now collecting state sales tax on purchases.

Chumley said that increased collections on Internet retail sales, however, won't immediately make up for projected losses due to repeal of the Internet access tax.

''I am concerned we could count on some revenue loss immediately,'' she said

If the tax is repealed, that won't affect state cases over tax collection of the past, Chumley said.

''It's not retroactive,'' she said. ''Again, we're left back in our case with, well, what is the court going to do?'' can do so because they were grandfathered into a law passed by Congress in 1998 known as the Internet Tax Moratorium.

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TAX NOT SO TAXING

Not all ISP's agree they shouldn't have to collect sales tax on the services they sell.

Ed Bryson, owner of Knoxville ISP Esper Systems, said he's been collecting sales tax since he started his business about eight years ago.

''I would actually support (Internet service) being taxed,'' he said. ''This state needs revenue. Do we pay sales tax on telephone bills? Do we pay sales tax on cable? (Internet access is) a commodity service.''

Bryson said it's not that he's such a big fan of taxes. He estimates that collecting and remitting the sales tax on his services cost about $500 per month. He says the company collects about $100,000 in sales taxes per year.

And Bryson figures he's lost a few customers to larger providers that don't charge sales tax.

But, he said, he doesn't believe that the Internet needs to be tax free for the country to go online.

''Do you really think the Internet needs any fertilizer right now? Do you really think that Tennessee needs to not tax the Internet to make jobs?'' he said.

''I don't like taxes anymore than anybody else,'' Bryson added. ''My philosophy is, just tell me what the rules are and I'll work within them. More than anything I'd like to see this (be) fair across the board.''

INTERNET TAX

Internet access sales tax: local and state sales tax charged on Internet service. The State considers Internet access a telecommunications service under Tennessee tax law.

Tax implemented: 1966

Tax rate: 7 percent state; 2.5 percent local.

Revenues collected per year: $9 million

Estimated revenues uncollected per year: $9 million

Estimated total revenue loss: $63 million

Tennessee court cases involving Internet service sales tax collection: 6

Companies involved: AOL (two cases), AT&T, CompuServe, EarthLink and Prodigy.

Other States that tax Internet access: Connecticut, Iowa, New Mexico, North Dakota, Ohio, South Carolina, South Dakota, Texas, Wisconsin as well as the District of Columbia

THE BASICS

With multiple tax codes, legislation and initiatives, thing can get a bit confusing when it comes to sales tax and the Internet.

1. Sales tax on Internet access. This is a state sales tax levied on the monthly subscription fees paid by customers to an Internet service provider.

Some providers don't charge the tax to Tennessee customers, saying the state legally can't require collection.

The issue has pitted five Internet service providers against the Tennessee Department of Revenue in court. This tax does not apply to the sale of goods over the Internet. (See item No. 3 below.)

2. Internet Tax Moratorium. This law was passed by Congress in 1998 and prohibited states from charging sales tax on Internet access.

Tennessee, which already was collecting tax on Internet service, was one of 10 states, along with the District of Columbia, allowed to continue collecting the tax.

The moratorium expired Saturday, and the House and Senate are hashing out a new Internet sales tax law. Both versions, so far, would end the collection of Internet access sales tax for the 10 grandfathered states, although the House's bill would postpone its expiration for another three years. The Senate bill has been stalled by Tennessee Sen. Lamar Alexander because of controversial provisions that states say would hinder collection of sales tax on a broad array of telecommunications services.

3. Tax on sales via Internet. This is sales tax charged on items bought over the Internet.

This issue has been in the news recently because Congress is contemplating a bill, separate from the tax moratorium, that would mandate collection of state and local sales tax on goods sold via the Internet to customers in States that comply with the Streamlined Tax Initiative.

This currently voluntary initiative includes a simplified tax structure that allows companies to more easily collect state and local sales tax on goods sold online. Tennessee has passed legislation changing its tax code to comply with the streamlined tax guidelines.

Mr. ALEXANDER. I thank the Chair.

Let me go to my first point, why this proposed legislation is an unfunded mandate.

The proposed legislation is an unfunded mandate because it would make it illegal for these States to continue to collect State and local Internet access taxes. The Congressional Budget Office estimates that these losses would amount to $80 billion to $120 billion a year.

That is not all. The language of the legislation enacted by the House of Representatives, and every version of that language we have seen thus far in this Chamber, broadens the ban on taxation on Internet access and increases the size of the Federal unfunded mandates, extending to some degree to other telecommunications services, which is why I suppose we have begun to see the halls filled with lobbyists from the telecommunications industry as they anticipate the possibility that

this Congress might be exempting them from some or maybe all of the taxes that State and local governments put on telecommunications.

Now, there are many estimates about how much this would cost State and local governments. I have a study prepared in November of 2001 by Ernst & Young for the telecommunications State and local tax coalition. This study by Ernst & Young says that telecommunications providers and consumers of telecommunications services paid a total of $18.1 billion in State and local taxes in 1999.

I am not suggesting this ban on Internet taxation would eliminate all of the $18 billion of State and local taxation on telecommunications, but virtually everyone agrees that it would eliminate some. Every time we, in our wisdom, tell a State or a city that it cannot use this tax, all we are doing is increasing the chance that Minneapolis or Tennessee will increase some other tax, or fire some teachers or lay off some employees or close some parks. We have to balance budgets where we come from. If we knock out a substantial part of the ability to State and local governments to tax the Internet and some part of the telecommunications industry, we are only increasing the possibility in Tennessee of raising the property tax, of raising the sales tax, of raising the tax on medicine, of raising the tax on food or, in our State, making it more likely that we will have sooner or later an income tax. That is just one estimate.

Another estimate by the Multistate Tax Commission reported on September 24, 2003: The Internet tax moratorium passed by the U.S. House of Representatives on September 17 would end up reducing State and local revenue collections by at least $4 billion, and as much as $8.75 billion by 2006, rather than the $500 million estimated cost under the legislation's narrow original focus.

The sponsors of the Internet tax ban in the Senate, Senators ALLEN, WYDEN and others, have been working with State and local officials and with other Senators to try to reduce the amount of loss to State and local governments. The House bill, which is also before the Senate, would cost Philadelphia, Nashville, Minneapolis, and our States up to $4 billion according to this study. So which taxes are they going to raise to replace it? Which teachers are they going to fire, from which school? Which park are they going to close? We are substituting our judgment for theirs.

There are other more specific estimates. We have been hearing from States. The Governor of Tennessee called me. He is a Democrat. I am a Republican. That does not matter so much because I respect the office. I had lunch with another former Governor of Tennessee, one of my predecessors. He is a Democrat as well. He agrees with us, too.

The Tennessee Department of Revenues says the managers' amendment will cost us $358 million a year. That is what the improved version of the House bill will cost one State, according to our State revenue department.

Then other States have been writing me, and writing their Senators. They say the Allen-Wyden amendment will cost Kentucky $40 million to $50 million, maybe $200 million. The new Governor of Kentucky is being elected, I guess as we speak. He will have a surprise on his hands perhaps when he finds out that he has some taxes to raise or some services to cut because we, in our wisdom, wanted to dictate that. Iowa, $45 million to $50 million; Maine, $35 million; New Jersey, $600 million; Ohio, $55.7 million; South Dakota, $34 billion; Tennessee, $358 million, as I said; Washington State, $33 million.

These are what the State governments are telling us the new and improved Senate version of the Internet tax ban would cost State and local governments. Those are some of the estimates we have heard about.

Now, to my second point, why is this so important? Why should we just not let it go on through?

Well, maybe one of the advantages of having been around a little while is I have seen and heard some things that I remember, such as 1994, I remember the Contract with America. I see my distinguished colleague from Pennsylvania. He remembers the Contract with America. He was a candidate, I believe, in that same year.

While I do not believe he was there, surely we all remember the 300 Republicans who stood on the steps of the Capitol. This was in September of 1994. This was just before something that was to happen that had not happened in half a century. It was a resurgence in the country that elected a Republican Congress.

What fueled all of that? What fueled that, according to the Heritage Foundation, in a candidate's briefing book that they did in 1996, looking back at 1994, chapter 14: With frustrated Americans focusing their anger increasingly on Washington and gridlock, many political candidates in 1994 successfully ran against Washington, appealing to voters to throw the bums out, replace them with individuals more honest and devoted to the public welfare.

Then they began to list the items of the Contract with America, one of which was to stop unfunded mandates.

I can remember that in 1994, the Republican Governors assembled in Williamsburg. They typically do this after an election every 2 years. There were 30 of them there. Governor ALLEN, now Senator, was the host, and Bob Dole, the new majority leader, came down. This is what he promised the Republican Governors, that S. 1, the first bill of the Senate, was going to be unfunded mandates. That was what Senator Dole promised the Republican Governors.

At about the same time, the Heritage Foundation was making a list of the unfunded mandates in this country that had given rise to all of this anger and frustration among the American people. I will not read them all but it reports, for example, that the National Conference on State Legislatures had identified 192 unfunded mandates on the States, including Medicaid, regulations governing the use of underground storage tanks, the Clean Water Act, the Clean Air Act, the Resource Conservation Recovery Act, the Safe Drinking Water Act, the Endangered Species Act, the Americans with Disabilities Act, the Fair Labor Standards Act, only to name a few. Those are all wonderful acts, but what was happening was they were claiming credit up here and those of us who were down there were having to pay some of the bill. The U.S. Conference on Mayors and Price Waterhouse estimated that the 1994 to 1998 cost of these mandates, excluding Medicaid, on 314 cities was $54 billion, or 11.7 percent of all local taxes. The EPA estimates that environmental mandates cost State and local governments $30 billion to $40 billion annually. State and local governments spend $137 billion to ensure safe drinking water.

These are good laws. I would like to have voted for them. I wish I had proposed many of them.

But the reason we had to come in here this year and pass legislation sending $20 billion back to the States and to local governments was not just because of the recession. It was because, consistently over the last 20 years, we have undercut the ability of State and local officials to make decisions for themselves about what services to provide and how to pay the bills.

One of my most vivid memories is of the distinguished former majority leader of the Senate, Bob Dole, who was elected in 1995 with that new Congress. He had a little copy of the United States Constitution, and he pulled it out when he met with the Governors in 1994 in Williamsburg, when they made the ''Williamsburg Resolve'' to stop these unfunded mandates. Senator Dole said he wanted to read to them the tenth amendment of the United States Constitution:

> The powers not delegated to the United States by the Constitution, nor prohibited by it by State, are reserved to the States respectively, or to the people.

Senator Dole went across this country during 1995, reading this amendment to Republican audiences and to audiences in general. I know because I was there at many of the same meetings; and I know because I was there, that this is the heart and the soul of the Contract With America and the Republican revolution in 1994.

I am surprised that this case of amnesia has come over so many of my colleagues and that we have forgotten about the importance of this. This is a body that is very respectful of one another. It would not be appropriate, I do not think, for me to mention a Senator's name. I suppose I could do it

within the rules of the Senate and then mention what he said about unfunded mandates in 1995 and apply it to the vote that we will be taking later this week. But let me read to you just a handful of examples of the kind of things that Members of this body said on this floor in 1995 when the Senate, by 91 to 9, passed the unfunded mandates bill. One Senator said:

In my own State, I repeat to the Senate, local officials, whether it be the Secretary of the State or Labor implementing motor vehicle registrations, or the mayor of the little town where I come from, attempted to meet the needs of the small city. I have heard their appeals and they clearly are tired of the Federal Government telling them precisely how to do things by regulation when they could do it just as well in different ways at less cost to their people.

A Democrat from the South:

I believe there is a tendency, particularly during a time of constrained Federal resources, to look to the imposition of obligations on State and local government as a means of accomplishing national objectives which we at the national Government are either unwilling or unable to pay for.

Another southern Senator, this one a Republican:

We worry about how we attract good people into office. It is things like unfunded mandates that drives them out.

Another Senator from the West:

I served in the legislature and a good deal of our budget was committed before we ever arrived by Federal unfunded mandates.

This goes on and on.

The one other matter that I would like to specifically mention before I conclude is I want to remind, if I may, my colleagues of why this is an unfunded mandate. Several have come up to me and said: This doesn't sound like an unfunded mandate to me. I thought an unfunded mandate was only when you pass a law to do a program, like help children with disabilities, and then only pay half the bill, which is what we do.

That is one kind of unfunded mandate. But another kind of unfunded mandate that is specifically defined by the Budget Act that was amended in 1995 by this Congress is a direct cost that

. . . would be required to be spent or prohibited from raising in revenues, in order to comply with the Federal intergovernmental mandate.

In other words, the term ''unfunded mandates'' just requires the requirements that we impose when we don't pay the bill. Whether we are requiring a new program or whether we are telling the State it cannot do this tax or that tax, it is a requirement we are imposing without paying the bill. In other words, we are claiming credit and asking others to pay the cost.

The Uniform Unfunded Mandates Reform Act of 1995 created a very specific procedure for this. This isn't guesswork. It said that when there appears to be an unfunded mandate, that here is how we enforce that. First, the Senate committee of relevant jurisdiction—in this case it would be the Commerce Committee—under section 423 of the Budget Act, submits a request for an assessment, identification, and description of any unfunded Federal mandate.

That was done. The Commerce Committee asked the Congressional Budget Office: Is this ban on Internet access taxation an unfunded Federal mandate?

And the Congressional Budget Office said: Yes.

I ask unanimous consent that a report by the Congressional Research Service be printed in the RECORD.

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

(CRS Report for Congress—Received Through the CRS Web)

UNFUNDED MANDATES REFORM ACT SUMMARIZED

(By Keith Bea and Richard S. Beth, Specialist, American National Government, Government Division)

SUMMARY

This summary of the Unfunded Mandates Reform Act (UMRA) of 1995 will assist Members of Congress and staff seeking succinct information on the statute. The term ''unfunded mandates'' generally refers to requirements that a unit of government imposes without providing funds to pay for costs of compliance. UMRA establishes mechanisms to limit federal imposition of unfunded mandates on other levels of government (intergovernmental mandates) and on the private sector. The act establishes points of order against proposed legislation containing an unfunded intergovernmental mandates, requires executive agencies to seek comment on regulations that would constitute a mandate, and establishes a means for judicial enforcement. This report will be updated during the 106th Congress if the act is amended.

OVERVIEW OF UMRA

History of the Act. Enactment of the Unfunded Mandates Reform Act of 1995 (UMRA) culminated years of effort by nonfederal government officials and their advocates to control, if not eliminate, the federal imposition of unfunded mandates. Supporters contend that the statute is needed to forestall federal legislation and regulations that impose questionable or unnecessary burdens and have resulted in high costs and inefficiencies. Opponents argue that mandates may be necessary to achieve results in areas in which voluntary action may be insufficient or state actions have not achieved intended goals.

Since the mid-1980s, Congress debated legislation to slow or prohibit the enactment of unfunded federal manages. The inclusion of the issue in the Contract with America, the blueprint of legislation action developed by the House Republican leadership when it gained the majority practically guaranteed that action would be taken. UMRA was signed into law early in the 104th Congress, on March 22, 1995.

Coverage of the Act. Under UMRA, Federal mandates include provisions of law or regulation that impose enforceable duties, including taxes. They also include provisions that reduce or eliminate Federal financial assistance available for carrying out an existing duty. UMRA distinguishes between ''intergovernmental mandates,'' imposed on state, local, or tribal governments, and ''private sector mandates.'' Intergovernmental mandates include legislation or regulations that would: (1) reduce certain Federal services to State, local, and tribal governments (such as border control or reimbursement for services to illegal aliens); and (2) tighten conditions of assistance or reduce federal funding for existing intergovernmental assistance programs with entitlement authority of $550 million or more. Exclusions and exemptions outside the reach of the statute are discussed later in this report.

Under UMRA, an intergovernmental mandate is considered unfunded unless the legislation authorizing the mandate meets its costs by either (1) providing new budget authority (direct spending authority or entitlement authority) or (2) authorizing appropriations. If appropriations are authorized, the mandate is considered unfunded unless the legislation ensures that in any fiscal year: (1) the actual costs of the mandate will not exceed the appropriations actually provided; (2) the terms of the mandate will be revised so that it can be carried out with the funds appropriated; (3) the mandate will be abolished; or (4) Congress will enact new legislation to continue the mandate as an unfunded mandate.

Contents of the Act. The act consists of five prefatory sections and four titles. The prefatory sections address matters such as the purpose, short title, and exclusions from coverage of the act. Title I amends the Congressional Budget and Impoundment Control Act, as amended, to permit Congress to (1) identify legislation proposing mandates, and (2) decline to consider legislation proposing unfunded intergovernmental mandates. Title I also sets forth thresholds for action, authorizations, and definitions. Title II requires that Federal agencies assess the financial impact of proposed rules on nonfederal entities, determine whether federal resources exist to pay those costs, solicit and consider input from affected entities, and generally select the least costly or burdensome regulatory option.Title III called for a review of Federal mandates to be completed within 18 months of enactment. This statutory requirement was not completed. UMRA assigned the study to the Advisory Commission on Intergovernmental Relations (ACIR), which no longer exists. The ACIR completed a preliminary report in January, 1996, but the final report was not released. Title IV authorizes judicial review of federal agency compliance with Title II provisions.The remainder of this report summarizes the requirements set forth in Titles I, II, and IV of the act.

REVIEW OF PROPOSED LEGISLATION (TITLE I)

Referred to as ''Legislative Accountability and Reform,'' Title I establishes requirements for committees and the Congressional Budget Office (CBO) to study and report on the magnitude and impact of mandates in proposed legislation. Title I also creates point-of-order procedures through which these requirements can be enforced and the consideration of measures containing unfunded intergovernmental mandates can be blocked.

Information Requirements. Under UMRA, congressional committees have the initial responsibility to identify Federal mandates in measures under consideration. Committees may have CBO study whether proposed legislation could have a significant budgetary impact on nonfederal governments, or a financial or employment impact on the private sector. Also, committee chairs and ranking minority members may have CBO study any legislation containing a Federal mandate.

When an authorizing committee orders reported a public bill or joint resolution containing a Federal mandate, it must provide the measure to CBO. CBO must report an estimate of mandate costs to the committee. The office must prepare full quantitative estimates if costs are estimated to exceed $50

million (for intergovernmental mandates) or $100 million (for private sector mandates), adjusted for inflation, in any of the first five fiscal years the legislation would be in effect. Below these thresholds, CBO must prepare brief statements of cost estimates. For each reported measure with costs over the thresholds, CBO is to submit to the committee an estimate of:

The direct costs of Federal mandates contained in it, or in any necessary implementing regulations; and

The amount of new or existing Federal funding the legislation authorizes to pay these costs.

If reported legislation authorizes appropriations to meet the estimated costs of an intergovernmental mandate, the CBO report must include a statement on the new budget authority needed, for up to 10 year, to meet these costs. For a measure that reauthorizes or amends an existing statute, the direct costs of any mandate it contains are to be measured by the projected increase over those costs required by existing law. The calculation of increased costs must include any projected decrease in existing Federal aid that provides assistance to nonfederal entities.

The committee is to include the CBO estimate in its report or publish it in the CONGRESSIONAL RECORD. The committee's report on the measure must also:

Identify the direct costs to the entities that must carry out the mandate;

Assess likely costs and benefits;

Describe how the mandate affects the ''competitive balance'' between the public and private sectors; and

State the extent to which the legislation would preempt state, local, or tribal law, and explain the effect of any preemption.

These requirements apply to all proposed mandates, both intergovernmental and private sector. For intergovernmental mandates alone, the committee is to describe in its report the extent to which the legislation authorizes federal funding for the direct costs, and details on whether and how funding is to be provided.

Points of Order for Initial Consideration. UMRA establishes that when any measure is taken up for consideration in either house, a point of order may be raised that the measure contains unfunded intergovernmental mandates exceeding the $50 million threshold. This point of order applies to the measure as reported, including, for example, a committee amendment in the nature of a substitute. For any measure reported from committee, a point of order against consideration may also be raised for either intergovernmental or private sector mandates, if the committee has not published a CBO estimate, or if CBO reported that no reasonable estimate was feasible.

In the Senate, if either point of order is sustained, the measure may not be considered. Otherwise, in ruling on the point of order, the chair is to consult with the Committee on Governmental Affairs on whether the measure contains intergovernmental mandates. Also, the unfunded costs of the mandate are to be determined based on estimates by the Committee on the Budget (which may draw for this purpose on the CBO estimate).

In the House, the chair does not rule on these points of order. Instead, under UMRA, the House votes on whether to consider the measure despite the point of order. To prevent dilatory use of the point of order, the chair need not put the question of consideration to a vote unless the point of order identifies specific language containing the unfunded mandate. Also, if several points of order could be raised against the same measure, House practices under UMRA afford means for all to be consolidated in a single vote. If the Committee on Rules proposes a special rule for considering the measure that waives the point of order, UMRA subjects the special rule itself to a point of order, which is disposed of by the same mechanism.

These procedures are intended to insure that the House, like the Senate, will always have an opportunity to determine, by vote, whether to consider a measure that may contain an unfunded mandate. Also, if the House votes to consider a measure in spite of the point of order, UMRA protects the ability of Members to offer amendments in the Committee of the Whole to strike out unfunded intergovernmental mandates, unless the special rule specifically prohibits such amendments.

Additional Enforcement Mechanisms. A point of order under the UMRA mechanism may be raised not only against initial consideration of a bill or resolution, but also against consideration of an amendment, conference report, or motion (e.g., a motion to recommit with instructions or a motion to concur in an amendment of the other house with an amendment) that would cause the unfunded costs of intergovernmental mandates in a measure to exceed the specified threshold. UMRA does not require amendments or motions to be accompanied by CBO mandate cost estimates, but a Senator may request CBO to estimate the costs of mandates in an amendment he or she prepares. If an amended bill or resolution or a conference report contains a new mandate or other new increases in mandate costs, the conferees are to request a supplemental estimate, which CBO is to attempt to provide. UMRA requires no publication of these supplemental estimates.

The UMRA points of order are not applicable against consideration of appropriations bills. However, if an appropriation bill contains legislative provisions that would create unfunded intergovernmental mandates in excess of the threshold, the UMRA point of order may be raised against the provisions themselves. In the Senate, if this point of order is sustained, the provisions are stricken from the bill.

Exclusions and Exemptions. Legislation pertinent to the following subject matters remains exempt from the UMRA point-of-order procedures: individual constitutional rights, discrimination prohibitions, auditing compliance, emergency assistance requested by nonfederal government officials, national security or treaty obligations, emergencies as designated by the President and the Congress, and Social Security. The provisions of Title I pertinent to Federal agencies (for example, the requirement that agencies determine whether sufficient appropriations exist to provide for proposed costs) do not apply to federal regulatory agencies. Also, provisions establishing conditions of Federal assistance or duties stemming from participation in voluntary Federal programs are not mandates.

ASSESSMENT OF MANDATES IN REGULATIONS (TITLE II)

Title II requires that Federal agencies prepare written statements that identify costs and benefits of a Federal mandate to be imposed through the rulemaking process. The requirement applies to regulatory actions determined to result in costs of $100 million or more in any one year. The written assessments to be prepared by Federal agencies must identify the law authorizing the rule, anticipated costs and benefits, the share of costs to be borne by the Federal Government, and the disproportionate costs on individual regions or components of the private sector. Assessments must also include estimates of the effect on the national economy, descriptions of consultations with nonfederal government officials, and a summary of the evaluation of comments and concerns obtained throughout the promulgation process. Impacts of ''any regulatory requirements'' on small governments must be identified; notice must be given to those governments; and technical assistance must be provided. Also, UMRA requires that Federal agencies consider ''a reasonable number'' of policy options and select the most cost-effective or least burdensome alternative.

JUDICIAL REVIEW (TITLE IV)

The requirements in Title II pertaining to the preparation of a mandate assessment statement and notification of impact on small governments remain subject to judicial review. A Federal court may compel a Federal agency to comply with these requirements, but such a court order cannot be used to stay or invalidate the rule.

Mr. ALEXANDER. Then there are some other steps that have to be taken. Not only is it defined as an unfunded intergovernmental mandate, there has to be a certain threshold of spending, $50 million adjusted by inflation, which today would be $64 million.

So the Congressional Budget Office has given its opinion on that, and they have said yes; it is an unfunded Federal mandate. So what the legislation provides, and what I plan to do when this comes up on Thursday, is as the law says. That it is not in order for this body to pass an unfunded Federal intergovernmental mandate, and that a point of order may be raised against its consideration. I plan to raise such a point of order.

The point of order may be waived by this body by 51 votes, which I hope it does not do because this body told the world in 1995 that it was through with this business of unfunded mandates. But we will see. We will see.

I will agree that it sounds good to say we are not going to tax Internet access. I will agree that there may be a Federal interest in not taxing Internet access. I agreed when the issue first came up in the 1990s that while the Internet was still an infant, maybe for the first 3 years a moratorium would be in order.

But if we think it is so important, then we should pay the bill. We should pay the bill. We should not fall into this bad habit that existed before the Republican revolution of 1994 of assuming that just because we were elected to come to Washington, suddenly we are all wise and that the Governors and mayors and legislators are not quite as wise and that we, therefore, ought to tell them what to do and that we ought to restrict their ability to do it or not do it based upon what their tax base is. Let them do their job and we can do ours.

I want to end where I began. It is a privilege to be in this body. One of the greatest privileges is to stand up here and say, on the floor of the Senate, something I used to think about as Governor time after time: Why are those Senators and those Congressmen assuming I can't do my job here? Why are they passing rules and then telling me to pay the bill, especially when they are printing money and we are balancing budgets?

I think we should draw the line. If we really believe that a ban on Internet access in a segment of the telecommunications interest is so overwhelmingly in the Federal interest, then let's pass an unfunded Federal

mandate reimbursement bill and send a check to the States, to Minneapolis, Nashville, Tennessee, every year, for whatever the cost of that is.

I remind my colleagues, and I intend to do so as long as I am here, that they were right in 1994 about the Contract With America. They were right when they stood on the steps of the Capitol and promised: No more unfunded mandates. If we break our contract, throw us out. And they were right when they passed by 91 to 9 in 1995 the ban against unfunded Federal mandates.

I hope the 64 of my colleagues who are still here remember that vote.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, to comment on the legislation the Senator from Tennessee was discussing, I have some concerns about the Internet and taxation of the Internet. I listened with great interest to the arguments the Senator from Tennessee has made. I think they are very good arguments.

I have another argument that causes pause for me and that is that, while, yes, everybody is talking about all the commerce that occurs on the Internet, there is a lot more depravity that occurs on the Internet than commerce.

The top Web sites visited on the Internet are Web sites having to do with pornography. As the father of six young kids, I have to tell you that continuing in the sense of subsidies by not allowing taxation concerns me. It seems to me these Internet IFCs and others who are so concerned in coming up here saying don't tax us and don't hold back the potential of the Internet seem to be a heck of a lot less concerned about the impact of culture debasement that is going on as a result of the exposure of pornography and violence and what I would consider antisocial activities that occur with frequency and that are even more harmfully imposed on young kids in popup ads, through e-mail and spam and through other vehicles that these lecherous members of the international community—it is not just in this country—use to try to sell their wares on the Internet.

I am speaking not as a Senator but as a father who is very disturbed about people coming here and crying, Don't tax us, at the same time they are doing very little to stop what I think is one of the scourges that attacks the decency of our society.

As someone who has been a supporter of the moratorium, as someone who has never seen a tax cut I didn't like and never saw a tax I did like, I don't like what I see going on on the Internet. This whole comment about it is commerce, if you look at where the commerce is, it is not the kind of commerce I think we want to be supporting.

THE CARE ACT

Mr. SANTORUM. Mr. President, I will not take any more time than necessary because I know the Senator from Nevada, who has spent countless hours here on the floor, would like to leave, like so many others here, but I raise again the issue of H.R. 7.

H.R. 7 is the charitable giving act, the CARE Act, that passed both the House and the Senate. I want to state again for the RECORD this is a bipartisan bill. This is a bill that was worked out in the Senate by Senator LIEBERMAN and myself. I worked with Senators DURBIN and REED of Rhode Island and others when they brought up concerns about this bill. We wanted to have a balanced bill, a bipartisan bill, one that could pass here with the kind of support for a bill which encourages charitable giving and individual development accounts for low-income individuals and social services block grants to help those organizations that meet the needs of people who are hurting in our communities. It should pass on a bipartisan basis. We were able to work that out. I even worked out something I wasn't sure I could work out, which is a commitment to try to work with the House to make sure they didn't include language which Senator REED of Rhode Island requested and Senator DURBIN requested; that it not include language having to do with faith-based organizations and expanding charitable choice.

Charitable choice is a provision in the law that was passed here three times and signed by the President three times to allow faith-based organizations to participate in social service funding programs the Federal Government implements. I said I would do my best to make sure that it was not in the House bill, and lo and behold, I was successful and it is not in the House bill. It is not a conferenceable issue. The biggest concern by about government and faith being mixed together is not in this bill. It is not a conferenceable item. There is no poison pill that can come back in this bill because it is not a conferenceable item. I kept the commitment on a bipartisan basis to keep this bill clean.

There are controversies between the House and Senate bills. The Senate bill is paid for. We have offsets in the bill. The House bill is not paid for. The social services block grant, which is a very important component of this mix, is in the Senate bill and is not in the House bill. There are a variety of different tax provisions that are treated differently in the House and Senate.

This isn't going to necessarily be an easy conference. There will have to be a lot of give and take, as in most conferences, when we are dealing with taxes and spending.

I think it is important that we sit down with the House and have a conference. I will tell you that I fully anticipate needing and wanting support from my colleagues here in the Senate on both sides of the aisle to get this bill done. We are going to need that kind of leverage to go to the House and be able to work out this compromise. I will need their support because I want to pass this bill. It is a bill that is on the President's agenda. This is one of the bills he really wants to accomplish.

I fully anticipate that if this bill comes back in the form that is not acceptable to the minority, there is probably very little chance they are going to give us the votes to be able to pass it.

To be crass about it, we have to work together. But to be honest about it, I want to work together. I think I have shown throughout the entire legislative history of this act that I have done so, and I have done so honestly and straightforwardly. We have produced a bill that has gotten overwhelming support. Actually a higher percentage of Democrats voted for this bill than Republicans.

I am concerned. I understand the minority has said and the Senator from Nevada has said with frequency they are not being treated fairly in conference. I understand that, and I don't necessarily want to get into that issue. They may have points, and they can take them up with the committee chairman and with the leader. I am talking about this bill. This is the first bill on which this charge has been leveled. We are not going to conference on this bill because of those reasons. I think it is not the best bill to pass. There may be other bills that have not been worked on on a bipartisan basis. But the prospect of having a bipartisan compromise is less likely than with this bill. This is a bill that helps poor kids. This is a bill that is going to provide social services funding to make sure people do not go homeless or hungry. This is a bill that we need to finish before the holiday season.

It makes no sense for us to use this vehicle as sort of the line in the sand that the minority is going to draw to say we are not happy with the way we are being treated. Fine. You are not happy with the way you are being treated, I understand that. But you certainly haven't been treated poorly on this bill. On this bill, you have been treated, I hope, as good as on any bill that has been passed through this Chamber. I anticipate that continuing. I anticipate—in fact, solicit and expect—full participation from Senator BAUCUS, with whom I have talked on this issue, and Senator GRASSLEY, with whom I have talked. Senator GRASSLEY came to the floor yesterday and said he anticipates, as he does with most if not all of the conferences he has been involved with, working on a bipartisan basis as is the custom in the Finance Committee.

I say in conclusion, before I enter into the unanimous consent request, to please look at what this bill has the potential of doing—2 billion pounds of food and more will be donated as a result of this bill passing over the next few years, 2 billion pounds of food that will be donated so people in America who are hungry and people who will be homeless will no longer be hungry and homeless; people who want quality education will have a better opportunity

to get that education; people who want to save and invest and start a small business or to go to school or to buy a home will have the opportunity to do that which they don't have today.

That is what this is all about. This should not be about disappointment over past practices. I hope we can focus on the goodness of this legislation and not take something that is accepted by both sides as a desirable and good thing for those who need help in America and use that as the point of departure of a new idea that says we are not going to go to conference because we have not been treated fairly.

I just hope in searching yourselves on the minority side that you will grab another piece of legislation and use that as the starting point. I don't think this legislation deserves it. I don't think the people who will benefit from it deserve it. I hope after further consideration we can have a reasonable conference and get this accomplished.

UNANIMOUS CONSENT REQUEST—H.R. 7

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7, the charitable giving bill. I further ask unanimous consent that all after the enacting clause be stricken; the Snowe amendment and the Grassley-Baucus amendment at the desk be agreed to en bloc; that the substitute amendment, which is the text of S. 476, the Senate-passed version of the charitable giving bill, as amended by the Snowe-Grassley-Baucus amendments, be agreed to; that the bill, as amended, be read the third time and passed and the motion to reconsider be laid upon the table; further, that the Senate insist upon its amendments and request a conference with the House; and, lastly, that the Chair be authorized to appoint conferees with the ratio of 3 to 2 and any statements relating to the bill be printed in the RECORD.

Mr. REID. I object. To say going to a conference is the only way to legislate between the House and the Senate is not a valid argument. I personally favor this legislation. I voted for it and I think it is something that is needed. As everyone knows, I am not a cheerleader for the budget but I think this legislation is important for our country. I commend the President for moving forward on it.

As I indicated, saying that a conference is the only way to legislate between the House and the Senate is not a valid argument. Almost every day, both Houses pass legislation for which a conference is not appointed.

Last night, the Senate passed the Fallen Patriots Tax Relief Act. We amended this piece of legislation, then sent it back to the House without asking for a conference.

We have done this lots of times. Here are bills that are now public laws. These pieces of legislation are now public laws. That is how they became public laws. We bundled them up, sent them to the House. On some of the occasions they accepted them, other times they sent them back with an amendment with which we dealt. H.R. 1584, H.R. 1298, H.R. 733, H.R. 13, H.R. 3146, H.R. 659 are extremely important pieces of legislation that we thought at the time were important. They are now law.

It is my understanding that the Senate, because of the majority, is not willing to deal with the CARE Act, as has been so forcibly announced here today by the distinguished Senator from Pennsylvania.

I suggest and, in the form of a unanimous consent, request that we treat this legislation as we treat lots of legislation: Send it to the House; they might accept it. If they do not, they can send it back with an amendment or amendments on it. They may like our bill. They may want to amend our bill. They may want to send it back. At least we should give the House this opportunity rather than holding the bill hostage.

Therefore, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7, which is at the desk; that all after the enacting clause be stricken; the Snowe amendment and the Grassley-Baucus amendment be agreed to en bloc; that the substitute amendment, which is the text of S. 476, as passed by the Senate and amended by the Snowe and Grassley-Baucus amendments, be agreed to; the bill, as amended, be read the third time and passed; and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. The objection is heard of the request of the Senator from Pennsylvania.

Is there objection to the request of the Senator from Nevada?

Mr. SANTORUM. I object.

Mr. President, I understand the Senator from Nevada has suggested we simply amend the bill we passed earlier this year and send it back to the House.

I respectfully suggest to the Senator from Nevada, through the Presiding Officer, we did that once. We passed this bill once and sent it to the House, and the House struck that bill and sent their version back. I don't think we gain anything by then taking the very bill they rejected and sending it back to them and expecting them to pass it. That is what I would call ping-pong. That is back and forth with nobody getting anywhere. That is why there are things such as conferences, where we actually sit down and try to work out differences.

I am not familiar with the list of bills the Senator from Nevada laid out when he said we have been able to accomplish passing of legislation without having a conference. And that is true. We are going to do one, hopefully, tomorrow, the Syria Accountability Act. But the changes between what the House wanted and what the Senate wanted were very minor changes, a couple of finding changes and basically a change in the waiver status. We talked to the House and they were willing to accept it because they were minor changes. That is an important piece of legislation. I would consider that a major piece of legislation, but it is not a particularly complex piece of legislation as we are dealing with—with a lot of the moving parts—as we have in the charitable giving act, the CARE Act. This is a rather complex piece of legislation, complex tax law.

There is a whole issue of $10 billion that is not paid for in one bill, in the House bill, and it is paid for here. How are we going to tell what, if anything, will be paid for and how much; what vehicles, what measures, we will use to offset this? This is a very complicated issue that has not just one—as the Syria Accountability bill—issue. There are many issues. There is the food donation provision. There are provisions on IRA rollovers. There are provisions on people who do not file long forms, people who do not itemize being able to deduct charitable giving. That is just three of probably a dozen issues we are going to have to deal with on this bill.

To suggest we can do so by ping-ponging the bill back and forth and trying to find some equilibrium—I suggest the people who have been in this Chamber for a lot longer than I have would recognize that a bill of this complexity does not get handled that way.

I hope we will recognize we have an obligation to try to finish this legislation. I hope we can do so in a way that will do well by the Senate. We have my commitment, the commitment of the Senator from Pennsylvania, to be inclusive, not just because that is the way we have done it but that is the way we need to do it in order to be successful and get a compromise that will pass both the House and the Senate.

I respectfully have to object to the unanimous consent request of the Senator from Nevada and hope we can continue to think of this and work on it and get to a successful conclusion.

Mr. REID. Mr. President, as my friend has said, we do not want to prolong this, but I make another suggestion that may work. That would be that the two amendments, the Snowe amendment which deals with the child tax credit and the other amendment that deals with tax extenders, really have nothing to do with charitable choice. I suggest those be taken from the bill and the pure bill that passed the Senate be sent to the House forthwith. That may make it easier for the House to deal with—I would hope so—and the other issues which I know are very important, we could deal with at a later time.

That is just a suggestion. I am not asking unanimous consent; I am just saying to my friend who has devoted so much of his time to this bill, which I know he believes in very sincerely, that might be a suggestion that is taken up with the majority leader and

others who have some persuasive powers in their ability to move this matter.

For clarification with respect to my colloguy with the distinguished Senator from Pennsylvania, we are ready to send to the House all three components of the Senate amendment to H.R. 7, the version of S. 476, as passed the Senate, the Snowe-Lincoln child tax credit piece, and the Grassley-Baucus tax extenders piece. We are supportive of all these items. In order to help the Senator from Pennsylvania, we are ready to send all of them over separately, and of course, we are ready to go forward sending them over bundled just without the necessity of a conference.

Mr. SANTORUM. I appreciate the suggestion of the Senator from Nevada.

I suggest in response to that, again, this bill is the bill that has already passed the Senate. We already sent it over to the House. The House has already looked at the Senate bill and said: We have a better way. We do not want to have offsets to this bill; we do not want to have social service block grant funds; we do not want to have as generous a food donation provision. We want to have some other provisions that you do not have in this legislation. They sent it back.

Now when you have such differing viewpoints on how to solve this problem, the tradition in this body, and out of necessity, is to convene a conference and get that done. Sending different versions back and forth does not make progress and, with all due respect, I do not believe will solve the problem.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

HONORING OUR ARMED FORCES

Mr. DODD. Mr. President, I rise to honor the memory of Pfc. Anthony D'Agostino, of Waterbury, CT, who was killed in Iraq this past Sunday. He was just 4 days short of his 21st birthday.

Private D'Agostino was part of the U.S. Army's 16th Signal Brigade, based in Fort Hood, TX. He was one of 15 soldiers killed when a missile struck a Chinook helicopter that was carrying American troops to Baghdad International Airport for a trip home to spend 2 weeks with family and friends. I join all of America in mourning each and every one of these brave soldiers, and in praying for the recovery of the 20 soldiers who were injured in the attack.

It's a sad fact of war that as the death toll mounts, the daily casualty reports can become almost routine. But each time I read the story of a Connecticut soldier who has perished overseas and this is the sixth such story in this war I'm reminded of how many lives are touched by every single man or woman who makes the ultimate sacrifice so that all of us can live in peace, freedom, and security.

Anthony was a true Connecticut son, spending virtually his entire life in our State. He grew up in Middlebury, attending Middlebury Elementary School and Memorial Middle School, and in 2001, he graduated from the W.F. Kaynor Regional Vocational-Technical High School, specializing in electricity. After graduating, he lived in Waterbury until he enlisted in the Army 2 years ago.

Men and women across America who make the decision to join our Armed Forces do so for a variety of reasons. For Anthony D'Agostino, it was a decision that was forged in the fire of the attacks of September 11, 2001. Like so many Americans, in the aftermath of those terrible attacks, Anthony decided that he wanted to contribute something to his country. Tragically, he and his family would ultimately make the most painful contribution of all.

Joining the Army was a homecoming of sorts for Anthony. He was born in Georgia while his father Steven was stationed at Fort Benning. And when it was time for Anthony to enter basic training 19 years later, he returned to the same base where his father once served.

Those who knew Anthony say he had a tremendous work ethic, whether that meant giving his all on high school sports teams, or mowing his grandparents' lawn with a stand-up mower. Even while he was in Iraq, he asked his family to send over Spanish books so he could use what little spare time he had to better himself. He had dreams of returning home and attending the U.S. Military Academy in West Point.

Anthony D'Agostino knew he was facing serious danger when he left for Iraq 8 months ago. But it was a danger he was prepared and proud to accept as a soldier in the United States Army.

Anthony had a sense of responsibility, dedication, and commitment well beyond his years. And Connecticut will never forget him.

My heart goes out to Anthony's father Steven, his mother Deb, his stepfather Paul, and to his entire family.

Mr. DURBIN. Mr. President, I would like to take a few minutes to pay tribute to a truly remarkable individual whom I have had the privilege to know and work with, U.S. Army Lt. Colonel Patrick Sargent. Pat Sargent worked in my office for a year as a Congressional Fellow in 2001. He is a helicopter pilot and is currently the commander of the 421st Medical Battalion stationed in Germany. Lt. Colonel Sargent served in Operation Iraqi Freedom and is scheduled to return for a second deployment shortly.

This past August, Pat received the General Benjamin O. Davis Jr. Award by the Tuskegee Airmen Inc., an organization dedicated to preserving the amazing legacy of the World War II Tuskegee Airmen. This award is conferred annually to ''a field grade officer who has exhibited outstanding performance in both professional and community service.'' It is the highest award given by this organization, and this year was the first time this honor has gone to an Army aviator.

Who were the Tuskegee Airmen? They were a group of American heroes who every American should know about. In recent years we have seen a surge in interest in World War II and the experiences of American servicemen who served in the worst conflict humanity has ever seen. Movies such as ''Saving Private Ryan'' have done much to illustrate the sacrifices of our World War II veterans, and we have begun construction of a World War II Memorial on the Mall here in Washington. All of these veterans sacrificed for the allied cause against totalitarianism.

But the Tuskegee Airmen faced an additional struggle on top of the war against the Axis Powers. They fought prejudice here at home, and they succeeded on both fronts. During World War II, the U.S. military began an experiment to determine whether African Americans were capable of successfully piloting combat aircraft. This ''experiment'' eventually evolved into the 332nd Fighter Group, consisting of four squadrons of fighter aircraft piloted entirely by African Americans. Under the command of then-Colonel Benjamin O. Davis, the 332nd flew 200 missions escorting U.S. bombers over Europe. It was the only U.S. fighter group of the war that never lost a bomber under its protection.

Pat Sargent is a modern-day descendent of those brave men. As I noted, he commands the 421st Medical Battalion. With 45 Black Hawk helicopters, 40 ground ambulances, 118 wheeled vehicles, and 591 personnel, it is the U.S. Army's largest medical evacuation battalion. Serving in Operation Iraqi Freedom, Pat became the first African American to command a medical evacuation battalion in combat in our Nation's history. The motto of the 421st is ''Anyone, Anywhere, Anytime.'' It is only three words in length, but it is telling nonetheless. The battalion's men and women are deployed to sites across the globe, including the Balkans, Iraq, Afghanistan, and Africa. They perform medical evacuations not only for American soldiers but for allied troops, wounded enemy soldiers that have been taken prisoner, and injured civilians. In Iraq, helicopters

from the 421st on MedEvac missions are routinely fired upon. Think about that. The crews of these helicopters, these amazing men and women, are being shot at as they strive to bring life-saving medical care to Iraqis and Americans alike. Anyone, anywhere, anytime.

Colonel Donald Gagliano, commander of the 30th Medical Brigade of which the 421st Battalion is a part, commented on Pat's recent award: ''This exemplary senior Army aviator is the quintessence of excellence. He is the epitome of the Tuskegee Airman, and his character, demeanor and professionalism are reflective and very similar to that of Gen. Benjamin O. Davis Jr.''

I cannot adequately pay tribute to Pat without also discussing his wife Sherry. She is also a Lt. Colonel in the Army and is currently stationed in Iraq as part of the 1st Armored Division. She and Pat met early in their careers, while they were both in training to become officers. Together they have a lovely daughter Samantha. Sherry has been in Iraq since the spring and is not scheduled to leave until spring, 2004.

As Pat and Sherry have found themselves both deployed overseas, they have had to make arrangements for someone to look after Samantha. Fortunately, Sherry's parents have been able to relocate to Germany indefinitely to help care for Samantha.

The Sargent family illustrates the fact that when our Nation calls upon our military to deploy, be it for peacekeeping, for combat, or for another type of operation, the sacrifices are borne by more than just those individuals who wear a military uniform.

September 11, 2001, was, of course, a tragic day for all Americans. Some of us were touched more directly than others. As I stated, Pat Sargent spent 2001 as a Congressional Fellow in my Washington, DC office. During that time, his wife was working at the Pentagon. On that terrible morning of September 11, Sherry Sargent learned that two aircraft had struck the World Trade Center. She walked down the hall to an office with a TV in order to learn what was going on. At 9:40 AM, American Airlines Flight 77 crashed into the portion of the Pentagon where Sherry Sargent's office was located. She lost many friends and coworkers that day. Had she been in her office she would almost certainly have been among those who were killed or injured. As soon as he learned of the attack on the Pentagon, Pat rushed to the scene to locate Sherry. He caught the last shuttle bus from Capitol Hill to the Pentagon before the area was sealed off. After a long search on the crowded Pentagon grounds, Pat was able to find Sherry and learn that she had, fortunately, survived the attack.

In an e-mail to my office a few months ago, Pat noted that ''High-tech weapons played a part in the success of this war; but, it was won with human capital—America's sons and daughters.'' He expressed his thanks for all that Congress has done to support our men and women in uniform.

Well, Pat, I want to thank you—and all of our dedicated service men and women—for your sacrifices, your commitment, and your bravery. And I congratulate you for your receipt of the General Benjamin O. Davis Award, an honor you richly deserve.

Mr. WARNER. Mr. President, I seek recognition to honor a Virginia soldier, Captain John Robert Teal, who was tragically killed in action in Iraq on Thursday, October 23, 2003. I want to express gratitude, on behalf of the Senate, for his service to our Nation. The American people, I am certain, join me in expressing their prayers and compassion to his family.

Captain John Robert Teal followed his father Joseph, a retired firefighter, into public service. He understood the importance of his present assignment and despite the personal risk, wanted to serve the United States and the people of Iraq during this critical time.

A medical officer attached to the Army's 4th Infantry Division, he was a dedicated and compassionate young man who, according to news reports, spent his final days helping sick children.

Captain Teal leaves behind his father Joseph; his mother Emmie; and his sister Elizabeth Kormanyos.

His parents, Joseph and Emmie, with whom I have had the pleasure to speak, albeit under tragic circumstances, are brave souls who have sacrificed so much for this Nation. We owe them and the other families who have lost their loved ones a debt of gratitude.

John was a 1990 graduate of Benedictine High School. Upon graduating from Benedictine, he attended the Virginia Military Institute from which he graduated in 1994 and received a commission in the United States Army.

He was an exceptional young man with a bright future in front of him. He was known as a wonderful person and according to friends, the kind of individual that no one could say anything bad about. The Commonwealth of Virginia and the entire Nation shall mourn his loss.

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Daniel Bader, a fellow Nebraskan and staff sergeant in the United States Army. Staff Sergeant Bader was killed on November 2 near Fallujah, Iraq when the Chinook helicopter he was aboard was shot down. Staff Sergeant Bader was one of 16 soldiers killed and 20 wounded en route to the United States for 2 weeks of leave. He was 28 years old.

Staff Sergeant Bader served in the 3rd Armored Cavalry, Tiger Squadron, based on Fort Carson, CO. He was deployed to Iraq on April 4, 2003.

A York, NE native, Staff Sergeant Bader was a dedicated soldier who was committed to his family and country. He joined the military shortly after graduating from high school and ''absolutely loved'' his career in the Army, said his wife Tiffany. In addition to his wife, Staff Sergeant Bader leaves behind a 14-month-old daughter, Taryn Makenzie. Our thoughts and prayers are with them both at this difficult time.

Staff Sergeant Bader and thousands of brave American service men and women confront danger every day in Iraq—their tremendous risks and sacrifices must never be taken for granted. For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Staff Sergeant Daniel Bader.

MOVING TO SUSPEND PARAGRAPH 4 OF RULE XVI

Mr. CRAPO. Mr. President, I submit the following notice in writing: ''In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the Committee Amendment to the bill (H.R. 2673), Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes, with respect to amendment No. 2068.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Mr. Robert Maricle, a bisexual man from Salinas, CA, disappeared from his community on December 14, 2002. Almost 4 months later, his body was discovered in a shallow grave. Mr. Maricle was reported missing after going out for drinks with three strangers. Police allege that those three strangers are responsible for Mr. Maricle's death, and committed the crime in part because of his sexual orientation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974,

as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through October 31, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is below the budget resolution by $14.6 billion in budget authority and by $14 billion in outlays in 2004. Current level for revenues is $108 million above the budget resolution in 2004.

Since my last report, dated October 14, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2004: An act making further continuing appropriations for fiscal year 2004 (H.J. Res. 75); Check Clearing Act for the 21st Century (P.L. 108–100); and, an act to amend Title 44, U.S.C. (P.L. 108–102). In addition the Congress has cleared for the President's signature the following acts: Partial Birth Abortion Act of 2003 (S. 3); and, an act to amend Title XXI, of the Social Security Act (H.R. 3288).

I ask unanimous consent that a transmittal letter from CBO and report be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 3, 2003.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached tables show the effects of Congressional action on the 2004 budget and are current through October 31, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last report dated October 10, 2003, the Congress has cleared and the President has signed the following acts which changed budget authority, outlays, and revenues for 2004: An act making further continuing appropriations for Fiscal Year 2004 (H.J. Res. 75); Check Clearing Act for the 21st Century (P.L. 108–100); and an act to amend Title 44, United States Code (P.L. 108–102).

In addition the Congress has cleared for the President's signature the following acts: Partial-Birth Abortion Act of 2003 (S.3); and an act to amend Title XXI, of the Social Security Act, (H.R. 3288).

The effects of these actions are detailed on Table 2.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF OCTOBER 31, 2003

[In billions of dollars]

	Budget resolution	Current level [1]	Current level over/ under (−) resolution
On-Budget:			
Budget Authority	1,873.5	1,858.9	−14.6
Outlays	1,897.0	1,883.0	−14.0
Revenues	1,331.0	1,331.1	0.1
Off-Budget:			
Social Security Outlays	380.4	380.4	0
Social Security Revenues	557.8	557.8	0

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF OCTOBER 31, 2003

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a	n.a	1,466,370
Permanents and other spending legislation [1]	1,081,649	1,054,550	n.a.
Appropriation legislation	0	345,754	n.a.
Offsetting receipts	−366,436	−366,436	n.a.
Total, enacted in previous sessions	715,213	1,033,868	1,466,370
Enacted this session:			
Authorizing Legislation:			
American 5-Cent Coin Design Continuity Act of 2003 (P.L. 108–15)	−1	−1	0
Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18)	2,746	2,746	0
Clean Diamond Trade Act (P.L. 108–19)	0	0	(*)
Prosecutorial Remedies and Other Tools to End Exploitation of Children Today Act (P.L. 108–21)	0	0	(*)
Unemployment Compensation Amendments of 2003 (P.L. 108–26)	4,730	4,730	145
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	13,313	13,312	−135,370
Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29)	0	0	(*)
Welfare Reform Extension Act of 2033 (P.L. 108–40)	99	108	0
Burmese Freedom and Democracy Act (P.L. 108–61)	0	0	−10
Smithsonian Facilities Authorization Act (P.L. 108–72)	1	1	0
Family Farmer Bankruptcy Relief Act of 2003 (P.L. 108–73)	0	0	(*)
An act to amend Title XXI of the Social Security Act (P.L. 108–74)	1,325	100	0
Chile Free Trade Agreement Implementation Act (P.L. 108–77)	0	0	−5
Singapore Free Trade Agreement Implementation Act (P.L. 108–78)	0	0	−55
First Continuing Resolution, 2004 (P.L. 108–84)	−2,222	1	−2
Surface Transportation Extension Act of 2003 (P.L. 108–88)	6,405	0	0
An act to extend the Temporary Assistance for Needy Families block grant program (P.L. 108–89)	15	−36	33
An act to amend chapter 84 of title 5 of the United States Code (P.L. 108–92)	1	1	0
An act to amend the Immigration and Nationality Act (P.L. 108–99)	0	0	2
Second Continuing Resolution, 2004 (H.J. Res. 75)	1	0	(*)
The Check Clearing Act for the 21st Century (P.L. 108–100)	0	0	(*)
An act to amend Title 44 of the United States Code (P.L. 108–102)	0	0	(*)
Total, authorizing legislation	26,412	20,962	−135,262
Appropriations Acts:			
Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11)	215	27,349	0
Legislative Branch Appropriations (P.L. 108–83)	3,539	3,066	0
Defense Appropriations (P.L. 108–87)	368,694	251,486	0
Homeland Security Appropriations (P.L. 108–90)	30,216	18,192	0
Total, appropriation acts	402,664	300,093	0
Passed Pending Signature:			
Partial-Birth Abortion Act of 2003 (S.3)	0	0	(*)
An act to amend Title XXI of the Social Security Act (H.R. 3288)	0	9	0
Total, passed pending signature	0	9	0
Continuing Resolution Authority: Second Continuing Resolution, 2004 (H.J. Res. 75)	356,166	189,919	0
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	358,447	333,124	n.a.
Total Current Level [1 2]	1,858,902	1,882,975	1,331,108
Total Budget Resolution	1,873,459	1,896,973	1,331,000
Current Level Over Budget Resolution	n.a.	n.a.	108
Current Level Under Budget Resolution	14,557	13,998	n.a.

[1] Per section 502 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as an emergency are exempt from enforcement of the budget resolution. As a result, the current level excludes prior-year outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108–69), and $456 million from funds provided in the Legislative Branch Appropriations Act, 2004 (P.L. 108–83).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Source: Congressional Budget Office.

Notes: n.a.=not applicable; P.L.=Public Law; *=less than $500,000.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, available for brief debate and confirmation votes by the United States Senate are several of the President's judicial nominees. Roger W. Titus of Maryland was unanimously reported by the Judiciary Committee to the Senate more than a month ago. This nomination was greeted with universal acclaim. He is an outstanding Maryland lawyer and leader of the bar, an active litigator in Maryland for over 37 years, a partner at the Venable law firm, a former President of the Maryland Bar Association. He has also served as an Adjunct Professor at the Georgetown University Law Center. Mr. Titus earned a unanimous ''Well-Qualified'' rating from the ABA, and an AV rating from Martindale-Hubbell.

In 2001, Mr. Titus was honored with The Baltimore Daily Record's first Leadership in the Law Award, which recognizes members of the legal community for their devotion to the betterment of the profession and their communities. In 1999, Mr. Titus received the Century of Service Award from the Montgomery County Bar Association for his outstanding contributions to the legal profession and community during the twentieth century.

According to an article in The Baltimore Sun, Mr. Titus was apparently in the running to be nominated for a seat on the U.S. Court of Appeals for the Fourth Circuit. In light of his stellar qualifications, deep roots in his legal community and ability to garner the bipartisan support of his elected officials he would have been a consensus choice for this important appellate seat. This White House was not interested in appointing a consensus nominee to the Fourth Circuit. It wanted to pick a fight. So it did. It nominated someone from Virginia to the Maryland vacancy on the Fourth Circuit and precipitated a controversy. There are reportedly 30,000 practicing attorneys in the State of Maryland. Instead of nominating a well qualified Marylander like Mr. Titus to Judge Murnahan's vacant seat on the Fourth Circuit, the President selected a controversial nominee with very little litigation experience from another jurisdiction. That nominee, Claude Allen, received a partial ''not qualified'' rating by the American Bar Association and his selection has engendered significant opposition from concerned citizens groups and understandably from the Maryland Senators.

It is regrettable that this President has again chosen the course of confrontation and conflict for his appellate court nominations. Mr. Titus, with his many years of litigation experience and his well-deserved reputation as a leader among lawyers in Maryland is the type of person who should have been chosen for Judge Murnahan's vacant seat on the Fourth Circuit. His nomination stands in sharp contrast to the inexperienced and divisive candidates chosen by the White House for too many appellate judgeships in what appear to be an effort to pack the court with ideological nominees and tilt these courts.

There is no doubt that Mr. Titus is a Republican, yet he has the support of both of his home-state Senators, both Democrats, and has earned the unanimous support of the Members of the Judiciary Committee. I would have supported his nomination to the Fourth Circuit vacancy. I continue to support his nomination to the District Court. The month-long delay the Republican leadership has already caused in his consideration for the District Court position reminds me of their delay in scheduling a vote on the Fifth Circuit nomination of Judge Edward Prado earlier this year. Then they did not want to allow Democratic Senators to vote for a conservative Hispanic nominee when they were trying desperately to mischaracterize Senate Democrats as anti-Hispanic. Now it seems we are making too much progress on too many judicial nominees to suit their partisan interests in mischaracterizing Senate Democrats as blockading Bush nominee's to the courts.

The truth is that in less than three years' time, President George W. Bush exceeded the number of judicial nominees confirmed for President Reagan in all four years of his first term in office. Senate Democrats have cooperated so that this President already surpassed the record of the President Republicans acknowledge to be the ''all time champ'' at appointing Federal judges. Since July, 2001, despite the fact that the Senate majority has shifted twice, a total of 167 judicial nominations have already been confirmed, including 29 circuit court appointments. One hundred judges were confirmed in the 17 months of the Democratic Senate majority and the Senate has proceeded to confirm another 67 judges during the comparative time of the Republican majority for a total of 167 judges.

One would think that the White House and the Republicans in the Senate would be heralding this landmark. One would think they would be congratulating themselves for putting more lifetime appointed judges on the federal bench than President Reagan did in his entire first term and doing it in three-quarters the time. One would think that they would be building upon that success by scheduling prompt votes on noncontroversial nominees like Roger Titus. But Republicans have a different partisan message and this truth is not consistent with their efforts to mislead the American people into thinking that Democrats have obstructed judicial nominations. That is why the President chose to criticize the Senate from the Rose Garden again last week and in campaign appearances around the country last weekend and earlier this week rather than work with us and recognize what we can accomplish together.

Not only has this President been accorded more Senate confirmations than President Reagan achieved during his entire first term, but he has also achieved more confirmations this year than in any of the six years that Republicans controlled the Senate when President Clinton was in office. Not once was President Clinton allowed 67 confirmations in a year when Republicans controlled the pace of confirmations. Despite the high numbers of vacancies and availability of highly qualified nominees, Republicans never cooperated with President Clinton to the extent Senate Democrats have. President Bush has appointed more lifetime circuit and district court judges in 10 months this year than President Clinton was allowed in 1995, 1996, 1997, 1998, 1999, or 2000.

Last year alone, the Democratic majority in the Senate proceeded to confirm 72 of President Bush's judicial nominees and was savagely attacked nonetheless. With a little cooperation from Senate Republicans we might match that record before adjournment this year, as well.

In fact, President Bush has now already appointed more judges in his third year in office than in the third year of the last five presidential terms, including the most recent term when Republicans controlled the Senate and President Clinton was leading the country to historic economic achievements. That year, in 1999, Republicans allowed only 34 judicial nominees of President Clinton's to be confirmed all year, including only 7 circuit court nominees. Those are close to the average totals for the six years 1995–2000 when a Republican Senate majority was determining how quickly to consider the judicial nominees of a Democratic President. By contrast, the Senate this year has already confirmed 67 judicial nominees, including 12 circuit court nominees, almost double the totals for 1999.

We have worked hard and bent over backwards cooperating with a very uncooperative White House and Senate Republican majority. In spite of their false charges and partisanship, Senate Democrats have continued working to make progress in filling judicial vacancies. According to the website of the Republican Chairman of the Judiciary Committee we have reduced the number of judicial vacancies below 40. Had the Senate Democratic majority not acted last year to authorize between 15 and 20 additional judgeships, the vacancies total might well be in the low 20's. After inheriting 110 vacancies when the Senate Judiciary Committee reorganized under Democratic control in 2001, I helped move through and confirm 100 of the President's judicial nominees in just 17 months. Through hard work we have proceeded to reduce vacancies to the lowest number in 13 years and arguably the lowest level since President Reagan. There are more Federal judges on the bench today than at any time in American history. These facts stand in stark contrast to the false partisan rhetoric that

demonize the Senate for having blocked all of this President's judicial nominations. The reality is that the Senate is proceeding at a record pace and achieving record numbers.

Also on the Senate calendar awaiting action is the nomination of Gary Sharpe of New York. That nomination was reported unanimously by the Judiciary Committee two weeks ago. He remains on the Senate Executive Calendar because the Senate Republican leadership has no interest in scheduling this noncontroversial judicial nominee for a vote.

Also on the Senate Executive Calendar awaiting scheduling of debate and a final vote are the nominations of Judge Dora Irizarry of New York and J. Leon Holmes of Arkansas. Mr. Holmes nomination has been awaiting debate since May, more than six months. Let us be clear. There is no Democratic hold preventing debate and votes on either of these nominees. They merit debate. There was debate in the Judiciary Committee. There should be debate on the Senate floor. And then the Senate will vote.

Indeed, following the debate on Judge Irizarry more than half of the Republican Members indicated that they opposed the President's nomination. I respect and understand their concern. I have had similar concerns about a number of this President's nominees. More than two dozen have received ratings or partial ratings of ''not qualified'' by the ABA. Some, like Timothy Hardiman of Pennsylvania and Dora Irizarry of New York, do not have the support of their local bar association either.

Unlike the way Republicans treated the nomination of Justice Ronnie White of Missouri when he was ambushed on the Senate floor and defeated in a party line vote. I do not expect that to happen with Judge Irizarry. Those with concerns have been forthright in coming forward. I do not expect Democratic Senators to do what Republicans did in 1999 to Ronnie White when they switch their votes and voted lockstep in a partisan effort to defeat his nomination on the floor.

With these four nominees for additional lifetime appointments to the federal bench, the Senate has the chance to reach a total of more than 170 judicial confirmations for the President in less than three years. Maybe that is why the Republican leadership has chosen not to go forward. Could it be that they do not want the American people to know that we have cooperating in filing 170 judicial vacancies in less than three years? That would not be consistent with the talking points the Administration is peddling to friendly media outlets all over town and around the country.

Over the last several days more than 200 people have been killed or wounded in Baghdad. The number of unemployed Americans has been at or near levels not seen in years, poverty is on the rise in our country, and the current Administration seems intent on saddling our children and grandchildren with trillions in deficits and debt. For the first time in a dozen years, charitable giving in this country is down.

While negative indicators are spiking, the Republican leadership of the Congress would rather demonize Democrats, engage in name calling and charge obstruction where the facts are historic levels of cooperation. The Senate wheel-spinning exercises involving the most controversial judicial nominees and the Republican leadership's insistence on unsuccessful cloture votes are unhelpful to the Senate or the courts. Despite the heated rhetoric on the other side of the aisle, we have made progress on judicial vacancies when and where the Administration has been willing to work with the Senate.

Only a handful of the President's most extreme and controversial nominations have been denied consent by the Senate. Up to today only four have failed. That record is in stark contrast to the more than 60 judicial nominees from President Clinton who were blocked by a Republican-led Senate. One-hundred sixty-seven to four, but as I have said, that total could be 170 to four if the Republican leadership would work with us and schedule voted and debate on the four nominees I have identified.

But despite this record of progress, made possible only through good faith effort by Democrats on behalf of a Republican President's nominees, and in the wake of the years of unfairness shown the nominees of a Democratic President, the Republican leadership has decided to use partisan plays out of its playbook as this year winds down.

Instead of putting partisanship aside and bridging our differences for the sake of accomplishing what we can for the American people, we are asked to participate in a transparently political exercise initiated by a President. With respect to his extreme judicial nominations, President George W. Bush is the most divisive President in modern times. Through his extreme judicial nominations, he is dividing the American people and he is dividing the Senate. Far from a uniter, on judicial nominations he has chosen to be a divider.

IN RECOGNITION OF TWO U.S. ARMY CIVILIANS RECEIVING AWARDS FOR OUTSTANDING SERVICE ON CAPITOL HILL

Mr. INOUYE. Mr. President, I would like to bring my colleagues' attention to two civil servants whose exemplary work in the U.S. Senate Army Congressional Liaison office has been formally recognized by the U.S. Army at a recent awards ceremony. For many years, my constituents have benefitted from their outstanding, timely, and compassionate service. It is my honor to also recognize their service, and to bring to your attention the nature of the awards given to Ms. Margaret Tyler and Mrs. Trulesta Pauling.

Ms. Tyler and Mrs. Pauling, both assigned to the Office of the Chief, Legislative Liaison, Headquarters, Department of the Army, were recognized in a ceremony held on October 23, 2003.

Ms. Tyler and Mrs. Pauling, Congressional Liaison Representatives for the U.S. Army's Senate Liaison Division on Capitol Hill, were each awarded the Army Staff Identification Badge and the Commander's Award for Civilian Service for exceptionally meritorious achievement. Both women were recognized for their work in support of Operations Enduring Freedom and Iraqi Freedom.

According to the award citations, Ms. Tyler and Mrs. Pauling managed their increased caseload with calm, grace, professionalism, and efficiency. Their commitment to excellence and devotion to duty has had a significant and long-lasting, positive impact on soldiers and their families.

The Commander's Award for Civilian Service is the fourth highest Department of the Army award for civilians. All Army civilian employees are eligible for consideration to receive this award for service, achievement and heroism. It is equivalent to the Army Commendation Medal awarded to soldiers.

The Army Staff Identification Badge was first proposed by General Douglas MacArthur while he was Chief of Staff of the U.S. Army, on December 28, 1931. The award of the lapel button for civilian personnel in the grade of GS–11 and higher was authorized in 1982 and is a symbol of exemplary service.

Once again, I extend my sincere congratulations to these two outstanding civil servants.

NOMINATION OF JOSEPH TIMOTHY KELLIHER

Mr. GRASSLEY. Mr. President, I rise today to state that I object to proceeding to the consideration of an executive nominee to the Federal Energy Regulatory Commission. The nominee is Joseph Timothy Kelliher, who is listed as a ''senior policy advisor'' to the Secretary of the Energy Department.

I have an outstanding document request at the Energy Department, and I must be certain that it will be answered in a timely and complete manner. I am also concerned that some Department of Energy officials are, among other things, misconstruing an amendment that I offered to H.R. 2754. My amendment is section 316 of the Energy and Water Appropriations Act, H.R. 2754, and it transfers claims processing responsibilities for ''Subtitle D'' of the Energy Employees Occupational Illness Compensation Program Act of 2000, EEOICPA, from the Department of Energy to the Department of Labor. I am trying to get some answers and straighten that out as well.

PROFESSOR GEOFFREY STONE'S SPEECH, ''CIVIL LIBERTIES IN WARTIME''

Mr. DURBIN. Mr. President, I ask unanimous consent to print in the RECORD a speech by University of Chicago Law Professor Geoffrey Stone on ''Civil Liberties in Wartime,'' delivered at the annual luncheon of the Chicago Council of Lawyers on July 23. Professor Stone thoughtfully reviews America's history of restricting civil liberties during times of war and our subsequent regret for those decisions. His speech invites reflection by the Members of this Senate as we debate important issues of national security and civil rights, and counsels us to ''value not only [our] own liberties but the liberties of others . . . and to have the wisdom to know excess when it exists and the courage to preserve liberty when it is imperiled.''

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

CIVIL LIBERTIES IN WARTIME

(By Geoffrey R. Stone)

We live in perilous times. This is true along several dimensions, but I focus this afternoon on only one of them: Civil Liberties in Wartime. Or, more precisely, how are we, as a nation, responding to the threat of terrorism?

Since September 11th, our government, in our name, has secretly arrested and detained more than a thousand non-citizens; it has deported hundreds of non-citizens in secret proceedings; it has eviscerated long-standing Justice Department restrictions on FBI surveillance of political and religious activities; it has vastly expanded the power of federal officials to invade the privacy of our libraries and our e-mails; it has incarcerated an American citizen, arrested on American soil, for almost a year—incommunicado, with no access to a lawyer, and with no effective judicial review; it has sharply restricted the protections of the Freedom of Information Act; it has proposed a TIPS program to encourage American citizens to spy on one another; it has laid the groundwork for a Department of Defense Total Information Awareness program to enable the government to engage in massive and unprecedented data collection on American citizens; it has detained a thousand prisoners of war in Guantanamo Bay in cynical disregard of the laws of war; and it has established military tribunals without due process protections. We live in perilous times.

Of course, we have lived in perilous times before. What I want to discuss this afternoon is how we have responded to such peril in the past, what we can learn from those experiences, and what our responsibilities are as lawyers.

I have a simple thesis: In time of war, we respond too harshly in our restriction of civil liberties, and then, later, regret our behavior. To test this thesis, I will review, very briefly, our experiences in 1798, the Civil War, World War I, World War II, the Cold War and the Viet Nam War. I will then offer some observations.

To begin, at the beginning. In 1798, the United States found itself embroiled in a European war that then raged between France and England. A bitter political and philosophical debate divided the Federalists, who favored the English, and the Republicans, who favored the French. The Federalists were then in power, and the administration of President John Adams initiated thus a dramatic series of defense measures that brought the United States into a state of undeclared war with France.

The Republicans fiercely opposed these measures, leading the Federalists to accuse them of disloyalty. President Adams, for example, declared that the Republicans ''would sink the glory of our country and prostrate her liberties at the feet of France.'' Against this backdrop, the Federalists enacted the Alien and Sedition Acts of 1798. The Alien Act empowered the President to deport any non-citizen he judged to be dangerous to the peace and safety of the United States. The Act accorded the non-citizen no right to a hearing, no right to present evidence and no right to judicial review.

The Sedition Act prohibited criticism of the government, the Congress or the President, with the intent to bring them into contempt or disrepute. The Act was vigorously enforced, but only against supporters of the Republican Party. Prosecutions were brought against every Republican newspaper and against the most vocal critics of the Adams administration.

The Sedition Act expired on the last day of Adams's term of office. The new President, Thomas Jefferson, promptly pardoned all those who had been convicted under the Act, and forty years later Congress repaid all the fines. The Sedition Act was a critical factor in the demise of the Federalist Party, and the Supreme Court has never missed an opportunity in the years since to remind us that the Sedition Act of 1798 has been judged unconstitutional in the ''court of history.''

During the Civil War, the nation faced its most serious challenge. There were sharply divided loyalties, fluid military and political boundaries, easy opportunities for espionage and sabotage, and more than 600,000 combat fatalities. In such circumstances, and in the face of widespread and often bitter opposition to the war, the draft and the Emancipation Proclamation, President Lincoln had to balance the conflicting interests of military necessity and individual liberty.

During the course of the Civil War, Lincoln suspended the writ of habeas corpus on eight separate occasions. The most extreme of these suspensions, which applied throughout the entire nation, declared that ''all persons . . . guilty of any disloyal practice . . . shall be subject to court martial.'' Under this authority, military officers arrested and imprisoned 38,000 civilians, with no judicial proceedings and no judicial review.

In 1866, a year after the war ended, the Supreme Court ruled in Ex parte Milligan that Lincoln had exceeded his constitutional authority, holding that the President could not constitutionally suspend the writ of habeas corpus, even in time of war, if the ordinary civil courts were open and functioning.

The story of civil liberties during World War I is, in many ways, even more disturbing. When the United States entered the war in April 1917, there was strong opposition to both the war and the draft. Many citizens vehemently argued that our goal was not to ''make the world safe for democracy,'' but to protect the investments of the wealthy, and that this cause was not worth the life of one American soldier, let alone ten or hundreds of thousands.

President Wilson had little patience for such dissent. He warned that disloyalty ''must be crushed out'' of existence and that disloyalty ''was . . . not a subject on which there was room for . . . debate.'' Disloyal individuals, he explained, ''had sacrificed their right to civil liberties.''

Shortly after the United States entered the war, Congress enacted the Espionage Act of 1917. Although the Act was not directed at dissent generally, aggressive federal prosecutors and compliant Federal judges soon transformed it into a blanket prohibition of seditious utterance. The administration's intent in this regard was made evident in November 1917 when Attorney General Charles Gregory, referring to war dissenters, declared: ''May God have mercy on them, for they need expect none from an outraged people and an avenging government.''

In fact, the government worked hard to create an ''outraged people.'' Because there had been no direct attack on the United States, and no direct threat to our national security, the Wilson administration had to generate a sense of urgency and anger in order to exhort Americans to enlist, to contribute money and to make the many sacrifices that war demands. To this end, Wilson established the Committee for Public Information, which produced a flood of inflammatory and often misleading pamphlets, news releases, speeches, editorials and motion pictures, all designed to instill a hatred of all things German and of all persons whose ''loyalty'' might be open to doubt.

During World War I, the government prosecuted more than 2,000 dissenters for opposing the war or the draft, and in an atmosphere of fear, hysteria and clamor, most judges were quick to mete out severe punishment—often 10 to 20 years in prison—to those deemed disloyal. The result was the suppression all genuine debate about the merits, the morality and the progress of the war.

But even this was not enough. A year later, Congress enacted the Sedition Act of 1918, which expressly prohibited any disloyal, scurrilous, or abusive language about the form of government, the Constitution, the flag, the uniform, or the military forces of the United States. Even the Armistice didn't bring this era to a close, for the Russian Revolution triggered a period of intense public paranoia in the United States, known to us today as the ''Red Scare'' of 1919–1920. Attorney General A. Mitchell Palmer unleashed a horde of undercover agents to infiltrate so-called radical organizations, and in a period of only two months the government arrested more than 5,000 American citizens and summarily deported more than a thousand aliens on ''suspicion'' of radicalism.

The story of the Supreme Court in this era is too familiar, and too painful, to bear repeating in detail. In a series of decisions in 1919 and 1920—most notably Schenck, Debs, and Abrams—the Court consistently upheld the convictions of individuals who had agitated against the war and the draft—individuals as obscure as Mollie Steimer, a twenty-year-old Russian-Jewish émigré who had thrown anti-war leaftlets in Yiddish from a rooftop on the lower East Side of New York, and as prominent as Eugene Debs, who had received almost a million votes in 1912 as the Socialist Party candidate for President.

As Harry Kalven has observed, these decisions left no doubt of the Court's position: ''While the nation is at war, serious, abrasive criticism . . . is beyond constitutional protection.'' These decisions, he added, ''are dismal evidence of the degree to which the mood of society can penetrate judicial chambers.'' The Court's performance was ''simply wretched.''

In December 1920, after all the dust had settled, Congress quietly repealed the Sedition Act of 1918. Between 1919 and 1923, the government released from prison every individual who had been convicted under the Espionage and Sedition Acts. A decade later, President Roosevelt granted amnesty to all of these individuals, restoring their full political and civil rights. Over the next half-century, the Supreme Court overruled every one of its World War I decisions, holding in effect that every one of the individuals who

had been imprisoned or deported in this era for his or her dissent had been punished for speech that should have been protected by the First Amendment.

On December 7, 1941, Japan attacked Pearl Harbor. Two months later, on February 19, 1942, President Roosevelt signed Executive Order 9066, which authorized the Army to ''designate military areas'' from which ''any persons may be excluded.'' Although the words ''Japanese'' or ''Japanese American'' never appeared in the Order, it was understood to apply only to persons of Japanese ancestry.

Over the next eight months, 120,000 individuals of Japanese descent were forced to leave their homes in California, Washington, Oregon and Arizona. Two-thirds of these individuals were American citizens, representing almost 90% of all Japanese-Americans. No charges were brought against these individuals; there were no hearings; they did not know where they were going, how long they would be detained, what conditions they would face, or what fate would await them. Many families lost everything.

On the orders of military police, these individuals were transported to one of ten internment camps, which were located in isolated areas in wind-swept deserts or vast swamp lands. Men, women and children were placed in overcrowded rooms with no furniture other than cots. They found themselves surrounded by barbed wire and military police, and there they remained for three years.

In Korematsu v. United States, decided in 1944, the Supreme Court, in a six-to- three decision, upheld the President's action. The Court offered the following explanation:

We are not unmindful of the hardships imposed upon a large group of American citizens. But hardships are part of war, and war is an aggregation of hardships. Korematsu was not excluded from the West Coast because of hostility to his race, but because the military authorities decided that the urgency of the situation demanded that all citizens of Japanese ancestry be segregated from the area. We cannot—by availing ourselves of the calm perspective of hindsight—say that these actions were unjustified.

In 1980, a congressional commission declared that the Japanese internment had been based, not on considerations of military necessity, but on crass racial prejudice and political expediency. Eight years later, President Reagan signed the Civil Liberties Restoration Act of 1988, which offered an official Presidential apology and reparations to each of the Japanese-American internees who had suffered discrimination, loss of liberty, loss of property and personal humiliation because of the actions of the United States government.

As World War II drew to a close, the nation moved almost seamlessly into the Cold War. As the glow of our wartime alliance with the Soviet Union evaporated, President Truman came under increasing attack from a coalition of Southern Democrats and anti-New Deal Republicans who sought to exploit fears of Communist aggression. As House Republican leader Joe Martin declared on the eve of the 1946 election, ''the people will choose tomorrow 'between communism and the preservation of our American life.'' The next day, the Democrats lost 56 seats in the House.

Thereafter, the issue of loyalty became a shuttlecock of party politics. By 1948, President Truman was boasting on the stump that he had imposed on the federal civil service the most extreme loyalty program in the entire ''Free World,'' and he had. But there were limits to Truman's anti-communism. In 1950, he vetoed the McCarren Act, which required the registration of all Communists. Truman explained that the Act was the product of ''public hysteria'' and would lead to ''witch hunts.'' Congress passed the Act over Truman's veto.

In 1954, Congress enacted the Communist Control Act, which stripped the Communist Party of ''all rights, privileges, and immunities.'' Only one Senator, Estes Kefauver, dared to vote against it. Irving Howe lamented ''this Congressional stampede to . . . trample . . . liberty in the name of destroying its enemy.''

Hysteria over the Red Menace swept the nation and produced a wide-range of federal, state and local restrictions on free expression and free association, including extensive loyalty programs for government employees; emergency detention plans for alleged ''subversives''; abusive legislative investigations designed to punish by exposure; public and private blacklists of those alleged ''pinkos'' who had been ''exposed''; and criminal prosecution of the leaders and members of the Communist Party of the United States.

The Supreme Court's response was mixed. The key decision, however, was Dennis v. United States, which involved the direct prosecution under the Smith Act of the leaders of the American Communist Party. In a six-to-two decision, the Court held in 1951 that the defendants could constitutionally be punished for their speech under the clear and present danger test even though the Court readily conceded that the danger was neither clear nor present. It was a memorable stroke of judicial legerdemain.

Over the next several years, the Court upheld far-reaching legislative investigations of ''subversive'' organizations and individuals and the exclusion of members of the Communist Party from the bar, the ballot and public employment. In so doing, the Court clearly put its stamp of approval on an array of actions we look back on today as models of McCarthyism.

In the Vietnam War, as in the Civil War and World War I, there was substantial opposition both to the war and the draft. Lest we forget the stresses of those years, let me quote briefly from Theodore White's eyewitness account of the 1968 Democratic Convention:

The demonstrators chant ''Peace Now'' as they approach the Chicago police picketlines. Then, like a fist, comes a hurtling column of police. It is a scene from the Russian revolution. Gas grenades explode. Demonstrators kneel and begin singing America the Beautiful. Clubs come down. ''The Whole World is Watching.''

Over the next several years, the nation entered a period of intense and often violent struggle. After President Nixon announced the American ''incursion'' into Cambodia, student strikes closed a hundred campuses. Governor Ronald Reagan, asked about campus militants, replied: ''If it takes a bloodbath, let's get it over with.'' On May 4, National Guardsmen at Kent State University responded to taunts and rocks by firing their M–1 rifles into a crowd of students, killing four and wounding nine others. Protests and strikes exploded at more than twelve hundred of the nation's colleges and universities. Thirty ROTC buildings were burned or bombed in the first week of May. The National Guard was mobilized in sixteen states. As Henry Kissinger put it later, ''The very fabric of government was falling apart.''

Despite all this, there was no systematic effort during the Vietnam War to prosecute individuals for their opposition to the war. As Todd Gitlin has rightly observed, in comparison to World War I, ''the repression of the late sixties and early seventies was mild.'' There are many reasons for this, including, of course, the rather compelling fact that most of the dissenters in this era were the sons and daughters of the middle class, and thus could not so easily be targeted as the ''other.'' But the courts, and especially the Supreme Court, played a key role in this period. In 1969, the Court, in Brandenburg, overruled Dennis and held that even advocacy of unlawful conduct cannot be punished unless it is likely to incite ''imminent lawless action.'' The Court had come a long way in the fifty years since World War I.

But the Court did not rest there. In other decisions it held that the Georgia House of Representatives could not deny Julian Bond his seat because of his express opposition to the draft; that a public university could not deny recognition to the SDS because it advocated a philosophy of violence; that the government could not conduct national security wiretaps without prior judicial approval; and, of course, that the government could not constitutionally enjoin the publication of the Pentagon Papers, even though the Defense Department claimed that publication would endanger national security.

This is not to say that the government did not find other ways to impede dissent. The most significant of these was the FBI's extensive effort to ''expose, disrupt and otherwise neutralize'' allegedly ''subversive'' organizations, ranging from civil rights groups to the various factions of the anti-war movement. In this COINTELPRO operation, the FBI compiled political dossiers on more than half-a-million Americans.

When these activities came to light they were sharply condemned by congressional committees, and Attorney General Edward Levi declared such practices incompatible with our national values. In 1976, he instituted a series of guidelines designed to restrict the political surveillance activities of the Federal Bureau of Investigation.

What can we learn from this history? I would like to offer at least a dozen observations. But time limits me to only six.

First, we have a long and unfortunate history of overreacting to the perceived dangers of wartime. Time after time, we have allowed our fears to get the better of us.

Second, it is often argued that given the sacrifices we ask citizens (especially soldiers) to make in time of war, it is small price to ask others to surrender some of their peacetime freedoms to help the war effort. As the Supreme Court argued in Korematsu, ''hardships are part of war, and war is an aggregation of hardships.''

This is a seductive, but dangerous argument. To fight a war successfully, it is necessary for soldiers to risk their lives. But it is not necessarily ''necessary'' for others to surrender their freedoms. That necessity must be convincingly demonstrated, not merely presumed. And this is especially true when, as is usually the case, the individuals whose rights are sacrificed are not those who make the laws, but minorities, dissidents and non-citizens. In those circumstances, ''we'' are making a decision to sacrifice ''their'' rights—not a very prudent way to balance the competing interests.

Third, the Supreme Court matters. It's often said that presidents do what they please in wartime. Attorney General Biddle once observed that ''the Constitution has not greatly bothered any wartime President,'' and Chief Justice Rehnquist recently argued that ''there is no reason to think that future wartime presidents will act differently from Lincoln, Wilson, or Roosevelt.''

In fact, however, the record is more complex than this suggests. Although presidents may think of themselves as bound more by political than by constitutional constraints in time of war, the two are linked. Lincoln did not propose a Sedition Act, Wilson rejected calls to suspend the writ of habeas

corpus and Bush has not advocated loyalty oaths. The fact is that even during wartime, presidents have not attempted to restrict civil liberties in the face of settled Supreme Court precedent. Although presidents often will push the envelope where the law is unclear, they do not defy established constitutional doctrine.

Fourth, it is often said that the Supreme Court will not decide a case against the government on an issue of military security during a period of national emergency. The decisions most often cited in support of this proposition are, of course, Korematsu and Dennis. In fact, however, there are many counter-examples.

During World War II, the Court upheld the constitutional rights of American fascists in a series of criminal prosecutions and denaturalization proceedings, effectively putting a halt to government efforts to punish such individuals. During the Cold War, the Court rejected President Truman's effort to seize the steel industry and eventually helped put an end to the era of McCarthyism. And during Vietnam, the Court repeatedly rejected national security claims by the Executive. So, although it is true that the Court tends to be wary not to ''hinder'' an ongoing war unnecessarily, it is also true that the Court has a significant record of fulfilling its constitutional responsibility to protect individual liberties—even in time of war.

Fifth, it is useful to note the circumstances that have tended to produce these abuses. They invariably arise out of the combination of a national perception of peril and a concerted campaign by government to promote a sense of national hysteria by exaggeration, manipulation and distortion. The goal of the government in fostering such public anxiety may be either to make it easier for it to gain public acceptance of the measures it seeks to impose or to gain partisan political advantage, or, of course, both. If all that sounds familiar, it should.

Finally, I want to say a word about our responsibilities as lawyers. In each of these episodes, lawyers played an important role, both in imposing the restrictions on civil liberties, and in opposing them. At the moment, I'm more interested in the latter. Albert Gallatin offered brilliant arguments in opposition to the Alien and Sedition Acts. Gilbert Roe defended the free speech rights of dissenters in World War I. Professors Ernst Freund and Felix Frankfurter, of the Chicago and Harvard law schools, played a critical role in illuminating the civil rights violations of the Red Scare and bringing that era to a close. Francis Biddle played a courageous role within the Roosevelt administration during World War II in opposing both the Japanese internment and the prosecution of American fascists. Joseph Welsch, a Boston lawyer, publicly humiliated Senator Joseph McCarthy hearings with his blistering questions ''Have you no sense of decency, sir, at long last? Have you left no sense of decency?'' And a group of lawyers here in Chicago from such organizations as BPI, the ACLU, the Better Government Association and the Alliance to End Repression helped put an end to end COINTELPRO and to the City of Chicago's Red Squad during the Vietnam War.

Now, to return to our own perilous time. The threat of terrorism is real, and we expect our government to protect us. But we have seen disturbing, and all-too-familiar, patterns in our government's activities. To strike the right balance in our time, we need judges who will stand fast against the furies of the age; members of the academy who will help us see ourselves clearly; an informed and tolerant public who will value not only their own liberties, but the liberties of others; and, perhaps most of all, lawyers with the wisdom to know excess when it exists and the courage to preserve liberty when it is imperiled.

Thank you.

ADDITIONAL STATEMENTS

CABOT TEACHES THE VALUE OF DAIRY

● Mr. LEAHY. Mr. President, I am pleased to take this opportunity to commend one of Vermont's most successful farmer-owned enterprises, the world-renowned Cabot Creamery of Vermont. Since its founding by 94 farmers in 1919, Cabot's farm families have preserved the heritage and proud agrarian traditions of the State of Vermont and our great nation.

Cabot has an 80-year history of doing what they do best, making the world's best cheddar cheeses. When Cabot Creamery earned the title of ''Best Cheddar in the World'' and ''Best Flavored Cheddar'' at the 22nd Biennial World Championship Cheese Contest, they did it as a team, steeped in family traditions and pride and with skill and expertise that has been painstakingly built over the generations. That same teamwork goes into every aspect of their business.

In 1992 Cabot joined forces with another New England farmer-owned cooperative, Agri-Mark Inc, to open new markets for Vermont dairy farmers. Today the cheese made by Cabot is from the milk of more than 1,450 Agri-Mark dairy producers throughout Vermont, New England and New York. The Cabot Creamery of Vermont combines the best aspects of both cooperative farming and value-added agricultural products to provide much-needed price premiums to Vermont dairy farmers.

The dairy farmers of Cabot Creamery also have a rich history in teaching their communities about the importance of dairy to the economy and to nutrition and health. Dairy products pack a powerful punch of eight additional nutrients needed for stronger bones and healthier bodies. Throughout New England, Cabot runs the Ag in the Classroom program, an educational program for elementary students that teaches them about agriculture. This program has been recognized by educators as a valuable resource that helps connect students to their communities, raises self-awareness and fosters creativity.

Cabot also has sponsored Calcium Crisis Challenge, a program for 6th—8th-grade students that helps them learn about calcium and its importance for stronger bones and healthy living. The program brings attention to the fact that more than 75 percent of Americans do not get enough calcium in their diets.

This week in Washington, D.C., the dairy farmers of Cabot Creamery will host a reception to highlight the national 3–A–Day education campaign. The 3–A–Day campaign is simple—three servings of milk, cheese or yogurt is a deliciously easy way to help build stronger bones and better bodies. Most Americans are eating only half the daily recommended servings of dairy each day, resulting in loss of bone density and in related health problems. Eating 3–A–Day of dairy is an easy and wholesome way for families to help meet their calcium needs.

Along with Senator JEFFORDS and Congressman SANDERS, I am pleased to join Cabot's involvement with this important education campaign to highlight the importance of dairy products to healthy diets.●

IN HONOR OF NATIONAL BIBLE WEEK

● Mr. MILLER. Mr. President, I am honored and humbled to serve as the Senate Co-chairman of the 2003 National Bible Week. During the week of November 23 to 30, communities and churches across this Nation will participate in this fine tradition by reading and reflecting on the teachings of the Bible. I am very proud to be a part of this celebration and I salute the National Bible Association for its sponsorship of this annual event.

The very first National Bible Week was organized in 1941, during World War II. Organizers created National Bible Week as a way to extend comfort and hope to our Nation during a troubled time. Today, in 2003, we are facing another troubled time when our country could use a dose of comfort and hope. The Holy Bible is our richest source of great inspiration, spiritual guidance and strength. That is why so many refer to it as their solid rock, their foundation.

During National Bible Week, I encourage everyone to read the Bible every day and to pledge to continue to turn to this Good Book throughout the year. Reflecting on Scripture, using the Bible's stories to teach our children right from wrong, and seeking to appreciate the literature on which our great United States of America was established is always time well spent. I congratulate the National Bible Association for its dedication to the celebration of God's word, the Holy Bible.●

MESSAGES FROM THE HOUSE

At 10:44 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 291. Concurrent resolution expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993; to the Committee on the Judiciary.

H. Con. Res. 302. Concurrent resolution expressing the sense of Congress welcoming

President Chen Shui-bian of Taiwan to the United States on October 31, 2003; to the Committee on Foreign Relations.

The message also announced that pursuant to section 1 of the Library of Congress Trust Fund Board Act (2 U.S.C. 154 note), and the order of the House of January 8, 2003, the Speaker appoints the following member on the part of the House of Representatives to the Library of Congress Trust Fund Board for a 5-year term to fill the existing vacancy thereon: Mrs. Elisabeth Devos of Grand Rapids, Michigan.

At 6:38 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker of the House has signed the following enrolled bills:

H.R. 2691. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes;

H.R. 3288. An act to amend title XXI of the Social Security Act to make technical corrections with respect to the definition of qualifying State; and

H.R. 3289. An act making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes.

The enrolled bills, previously signed by the Speaker of the House, were signed on today, November 4, 2003, by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 291. Concurrent resolution expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993; to the Committee on the Judiciary.

H. Con. Res. 302. Concurrent resolution expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4984. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS; Implementation of Section 309(i) of the Communications Act—Competitive Bidding, Narrowband PCS, GEN Doc. No. 90–314'' (FCC01–135) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4985. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''2000 Biennial Regulatory Review—Spectrum Aggregation Limits for Commercial Mobile Radio Services'' (FCC01–328) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4986. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico'' (FCC01–387) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4987. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Competitive Bidding Rules to License Certain Rural Service Areas'' (FCC02–09) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4988. A communication from the Attorney Advisor, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Sections 309(i) and 337 of the Communications Act of 1934 as Amended'' (FCC02–82) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4989. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''The 4.9 GHz Band Transferred from Federal Government Use'' (FCC02–41) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4990. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''The Development of Operational, Technical, and Spectrum Requirements for Meeting Federal, State, and Local Public Safety Agency Communication Requirements Through the Year 2010'' (FCC02–216) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4991. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''1998 Biennial Regulatory Review—Private Land Mobile Radio Services'' (FCC02–139) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4992. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended'' (FCC00–403) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4993. A communication from the Associate Bureau Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''The Development of Operational, Technical, and Spectrum Regulrements for Meeting Federal, State, and Local Public Safety Communication Requirements Through the Year 2010'' (FCC01–10) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4994. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service'' (FCC02–286) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4995. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Charles Town, West Virginia, and Stephens City, Virginia)'' (MB Doc. No. 03–12) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4996. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ehrenberg, Arizona)'' (MB Doc. No. 03–174) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4997. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wright City, OK)'' (MM Doc. No. 01–255) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4998. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Crowell, TX and Florien, LA)'' (MB Doc. No. 02–168, –169) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4999. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dickens, Floydada, Rankin, San Diego, and Westbrook, TX)'' (MB Doc. No. 02–258, –259, –262, –264, –265) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5000. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cobleskill and Saint Johnsville, NY)'' (MM Doc. No. 00–40) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5001. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cambria, CA)'' (MB Doc. No. 03–182) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5002. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Lamont and McFarland, CA)'' (MB Doc. No. 03–64) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5003. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of

a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (RIN2120–AA65) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5004. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Jet Route J–147 Doc. No 03–AEA–3'' (RIN2120–AA66) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5005. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC–8–102, 103, 106, 201, 202, 301, 311, and 315 Airplanes'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5006. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Goodrich Avionics Systems, Inc. TAWS8000 Terrain Awareness Warning System'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5007. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MD Helicopters, Inc. Model 369A,D ,e<h<HE, HM, HS, F, and FF Helicopter'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5008. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney PW 4074, PW4074D, PW4077D, PW4090, and PW4090–3 Turbofan Engines'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5009. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Short Brothers and Harland Ltd. Models SC–7 Series 2 and SC–7 Airplanes'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5010. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Augusta Model A109K2 Helicopters'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5011. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5012. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Aerospatiale Model ATR42–200, 300, 320, and 500 Series Airplanes and Model ATR72 Series Airplanes'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5013. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL–600–2B19 Regional Jet Series 100 and 440 Airplanes'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5014. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Textron Lycoming Fuel Injected Reciprocating Engines'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5015. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company 90, 100, and 200 Series Airplanes'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5016. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Point Pilot, AK'' (RIN2120–AA66) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5017. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fairchild Aircraft Inc., SA226 Series and SA227 Airplanes'' (RIN2120–AA64) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5018. A communication from the Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities'' (FCC03–190) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5019. A communication from the Bureau Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities'' (FCC02–121) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5020. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems'' (FCC02–120) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5021. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 90.20(e)(6) of the Commission's Rules to Revise the Authorized Duty Cycle on 173.075 MHz'' (FCC02–232) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5022. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules Regarding Multiple Address Systems'' (FCC01–171) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5023. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Below 28000 kHz'' (FCC03–39) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5024. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures'' (FCC01–270) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5025. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area'' received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5026. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area to Prevent Exceeding the 2003 Halibut Bycatch Allowance'' received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5027. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Fishing for Yellowfin Sole by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5028. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure; Prohibiting Directed Fishing for Groundfish by Vessels Using Hook-and-Line Gear in the Gulf of Alaska, Except for Demersal Shelf Rockfish in the Southeast outside District or Sablefish'' received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5029. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: [CGD05–03–050], Great Channel Between Stone Harbor and Nummy Island, NJ'' (RIN1625–AA09) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5030. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone

Regulations: [COTP Los Angeles-Long Beach 03–011], [COTP Prince William Sound 03–002]'' (RIN1625–AA00) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5031. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: [COTP Mobile 03–022], Bayou Castle, Chevron Pascagoula Refinery, Pascagoula, MS'' (RIN1625–AA00) received on October 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5032. A communication from the Attorney, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Time Zone Boundary in the State of South Dakota: Relocation of Jones, Mellette, and Todd Counties'' (RIN2105–AD30) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5033. A communication from the Attorney, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Policy Statement on Airline Preemption'' (RIN2105–AA46) received on November 3, 2003; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BENNETT (for himself and Mr. HATCH):

S. 1815. A bill to designate the Department of Veterans Affairs Medical Center in Salt Lake City, Utah; to the Committee on Veterans' Affairs.

By Mr. SCHUMER:

S. 1816. A bill to designate the building located at 15 Henry Street in Binghamton, New York, as the ''Kevin J. Tarsia Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. SANTORUM:

S. 1817. A bill to amend the Internal Revenue Code of 1986 to include influenza vaccines in the Vaccine Injury Compensation Program; to the Committee on Finance.

By Mr. GRAHAM of South Carolina:

S. 1818. A bill to provide grants to law enforcement agencies that ensure that law enforcement officers employed by such agency are afforded due process when involved in a case that may lead to dismissal, demotion, suspension, or transfer; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1819. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR (for himself and Mr. BIDEN):

S. Res. 258. A resolution expressing the sense of the Senate on the arrest of Mikhail B. Khodorkovsky by the Russian Federation; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 249

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 249, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a deceased veteran after age 55 shall not result in termination of dependency and indemnity compensation otherwise payable to that surviving spouse.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 557

At the request of Ms. COLLINS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 722

At the request of Mr. DURBIN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 722, a bill to amend the Federal Food, Drug, and Cosmetic Act to require that manufacturers of dietary supplements submit to the Food and Drug Administration reports on adverse experiences with dietary supplements, and for other purposes.

S. 863

At the request of Mr. EDWARDS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 863, a bill to amend the Higher Education Act of 1965 to allow soldiers to serve their country without being disadvantaged financially by Federal student aid programs.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 1035

At the request of Mr. CORZINE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1035, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1217

At the request of Mr. ENZI, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1217, a bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

S. 1304

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1304, a bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services.

S. 1419

At the request of Ms. LANDRIEU, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1419, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1545

At the request of Mr. HATCH, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1619

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1619, a bill to amend the Individuals With Disabilities Education Act to ensure that children with disabilities who are homeless or are wards of the State have access to special education services, and for other purposes.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples

collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1730

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1730, a bill to require the health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 1807

At the request of Mr. MCCAIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1807, a bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. CON. RES. 33

At the request of Mr. CRAIG, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. Con. Res. 33, a concurrent resolution expressing the sense of the Congress regarding scleroderma.

S. CON. RES. 56

At the request of Mr. CORZINE, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Con. Res. 56, a concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring Gunnery Sergeant John Basilone, a great American hero.

S. CON. RES. 73

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Con. Res. 73, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 75

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Con. Res. 75, a concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33.

S. RES. 244

At the request of Mrs. BOXER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 244, a resolution congratulating Shirin Ebadi for winning the 2003 Nobel Peace Prize and commending her for her lifetime of work to promote democracy and human rights.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. ENSIGN):

S. 1819. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to introduce this bill, which will address important public land issues in central Nevada. As you might know, the Federal Government controls over 87 percent of the State of Nevada. Many of our colleagues from other States may not understand the challenge this presents for communities in Nevada. With such large tracts of land controlled by Federal agencies, it can be difficult to acquire land for vital efforts in both the public and private sectors.

This bill will convey two cemeteries in central Nevada from the Federal Government back to the local communities. Kingston is a small town in southern Lander County, and Beowawe is a small community located in Eureka County. The original communities were home to pioneers and immigrants who settled the isolated high desert valleys of the central Great Basin. In the late 1800s, the pioneers established and managed the cemeteries to provide a final resting place for friends and family. Much of the original Kingston Cemetery is on land now managed by the U.S. Forest Service. The Maiden's Grave Cemetery in Beowawe is on land currently managed by the Bureau of Land Management.

Under current law, these agencies must sell the cemeteries back to the communities at fair market value. However, these historic cemeteries were established prior to the designation of the Federal agencies that now manage them. For over 2 years, Lander County has been required to lease much of the Kingston Cemetery from the Forest Service. The Forest Service recently sold approximately 1 acre to the Town of Kingston, but this conveyance did not allow for the protection of uncharted graves, nor for the implementation of the community's original site plan.

It is wrong that Beowawe and Kingston should have to buy or lease cemeteries from Federal agencies that did not even exist at the time that the cemeteries were established. Our bill simply provides for the conveyance of the Maiden's Grave Cemetery to Eureka County and the balance of the original location of the Kingston Cemetery to Lander County, Nevada.

The conveyances provided by this bill will benefit our Federal land managers as well as our rural communities. The disposal of these small parcels of land for no consideration will benefit the United States because they represent isolated tracts that prove difficult to manage for public use. I sincerely hope that my colleagues recognize the benefit that the conveyances would provide to the local communities and support passage of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Central Nevada Rural Cemeteries Act''.

SEC. 2. CONVEYANCE TO LANDER COUNTY, NEVADA.

(a) FINDINGS.—Congress finds that—

(1) the historical use by settlers and travelers since the late 1800's of the cemetery known as ''Kingston Cemetery'' in Kingston, Nevada, predates incorporation of the land within the jurisdiction of the Forest Service on which the cemetery is situated;

(2) it is appropriate that that use be continued through local public ownership of the parcel rather than through the permitting process of the Federal agency;

(3) in accordance with Public Law 85–569 (commonly known as the ''Townsite Act'') (16 U.S.C. 478a), the Forest Service has conveyed to the Town of Kingston 1.25 acres of the land on which historic gravesites have been identified; and

(4) to ensure that all areas that may have unmarked gravesites are included, and to ensure the availability of adequate gravesite space in future years, an additional parcel consisting of approximately 8.75 acres should be conveyed to the county so as to include the total amount of the acreage included in the original permit issued by the Forest Service for the cemetery.

(b) CONVEYANCE ON CONDITION SUBSEQUENT.—Subject to valid existing rights and the condition stated in subsection (e), the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the ''Secretary''), not later than 90 days after the date of enactment of this Act, shall convey to Lander County, Nevada (referred to in this section as the ''county''), for no consideration, all right, title, and interest of the United States in

and to the parcel of land described in subsection (c).

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of National Forest System land (including any improvements on the land) known as ''Kingston Cemetery'', consisting of approximately 10 acres and more particularly described as SW1/4SE1/4SE1/4 of section 36, T. 16N., R. 43E., Mount Diablo Meridian.

(d) EASEMENT.—At the time of the conveyance under subsection (b), subject to subsection (e)(2), the Secretary shall grant the county an easement allowing access for persons desiring to visit the cemetery and other cemetery purposes over Forest Development Road #20307B, notwithstanding any future closing of the road for other use.

(e) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—The county (including its successors) shall continue the use of the parcel conveyed under subsection (b) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the county and an opportunity for a hearing, makes a finding that the county has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the county fails to discontinue that use—

(A) title to the parcel shall revert to the Secretary, to be administered by the Secretary; and

(B) the easement granted to the county under subsection (d) shall be revoked.

(3) WAIVER.—The Secretary may waive the application of subparagraph (A) or (B) of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

SEC. 3. CONVEYANCE TO EUREKA COUNTY, NEVADA.

(a) FINDINGS.—Congress finds that—

(1) the historical use by settlers and travelers since the late 1800's of the cemetery known as ''Maiden's Grave Cemetery'' in Beowawe, Nevada, predates incorporation of the land within the jurisdiction of the Bureau of Land Management on which the cemetery is situated; and

(2) it is appropriate that that use be continued through local public ownership of the parcel rather than through the permitting process of the Federal agency.

(b) CONVEYANCE ON CONDITION SUBSEQUENT.—Subject to valid existing rights and the condition stated in subsection (e), the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the ''Secretary''), not later than 90 days after the date of enactment of this Act, shall convey to Eureka County, Nevada (referred to in this section as the ''county''), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (c).

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of public land (including any improvements on the land) known as ''Maiden's Grave Cemetery'', consisting of approximately 10 acres and more particularly described as S1/2NE1/4SW1/4SW1/4, N1/2SE1/4SW1/4SW1/4 of section 10, T.31N., R.49E., Mount Diablo Meridian.

(d) EASEMENT.—At the time of the conveyance under subsection (b), subject to subsection (e)(2), the Secretary shall grant the county an easement allowing access for persons desiring to visit the cemetery and other cemetery purposes over an appropriate access route consistent with current access.

(e) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—The county (including its successors) shall continue the use of the parcel conveyed under subsection (b) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the county and an opportunity for a hearing, makes a finding that the county has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the county fails to discontinue that use—

(A) title to the parcel shall revert to the Secretary, to be administered by the Secretary; and

(B) the easement granted to the county under subsection (d) shall be revoked.

(3) WAIVER.—The Secretary may waive the application of subparagraph (A) or (B) of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 258—EXPRESSING THE SENSE OF THE SENATE ON THE ARREST OF MIKHAIL B. KHODORKOVSKY BY THE RUSSIAN FEDERATION

Mr. LUGAR (for himself and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 258

Whereas the Russian Federation is now a member of the family of democratic countries;

Whereas the United States supports the development of democracy, free markets, and civil society in the Russian Federation and in other states of the former Soviet Union;

Whereas the rule of law, the impartial application of the law, and equal justice for all in courts of law are pillars of all democratic societies;

Whereas investment, both foreign and domestic, in the economy of Russia is necessary for the growth of the economy and raising the standard of living of the citizens of the Russian Federation;

Whereas property rights are a bulwark of civil society against encroachment by the state, and a fundamental building block of democracy; and

Whereas reports of the arrest of Mikhail B. Khodorkovsky and the freezing of shares of the oil conglomerate YUKOS have raised questions about the possible selective application of the law in the Russian Federation and may have compromised investor confidence in business conditions there: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the law enforcement and judicial authorities of the Russian Federation should ensure that Mikhail B. Khodorkovsky is accorded the full measure of his rights under the Russian Constitution to defend himself against any and all charges that may be brought against him, in a fair and transparent process, so that individual justice may be done, but also so that the efforts the Russian Federation has been making to reform its system of justice may be seen to be moving forward; and

(2) such authorities of the Russian Federation should make every effort to dispel growing international concerns that—

(A) the cases against Mikhail B. Khodorkovsky and other business leaders are politically motivated; and

(B) the potential remains for misuse of the justice system in the Russian Federation.

AMENDMENTS SUBMITTED & PROPOSED

SA 2053. Mr. SHELBY (for himself and Mr. SARBANES) proposed an amendment to the 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.

SA 2054. Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. HARKIN, Mr. FEINGOLD, Mr. DURBIN, Mr. LAUTENBERG, and Mr. NELSON of Florida) proposed an amendment to the bill S. 1753, supra.

SA 2055. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 2056. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, supra; which was ordered to lie on the table.

SA 2057. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, supra; which was ordered to lie on the table.

SA 2058. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, supra; which was ordered to lie on the table.

SA 2059. Ms. CANTWELL (for herself, Mr. ENZI, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the 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.

SA 2060. Mrs. BOXER (for herself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1753, supra.

SA 2061. Mrs. FEINSTEIN (for herself, Mrs. BOXER, and Mr. KENNEDY) proposed an amendment to the bill S. 1753, supra.

SA 2062. Mr. DURBIN proposed an amendment to the bill S. 1753, supra.

SA 2063. Mr. LAUTENBERG (for himself, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. BOXER, Mr. CORZINE, Mr. SCHUMER, Mr. LEAHY, Mr. LIEBERMAN, Mr. KERRY, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2861, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 2064. Mr. CORZINE proposed an amendment to the 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.

SA 2065. Mr. FEINGOLD proposed an amendment to the bill S. 1753, supra.

SA 2066. Mr. FEINGOLD proposed an amendment to the bill S. 1753, supra.

SA 2067. Mr. SHELBY (for Mr. NELSON of Florida) proposed an amendment to the bill S. 1753, supra.

SA 2068. Mr. CRAPO (for himself and Mr. SMITH) submitted an amendment intended to

be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 2069. Mr. AKAKA submitted an amendment intended to be proposed by him to the 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; which was ordered to lie on the table.

SA 2070. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table.

SA 2071. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2053. Mr. SHELBY (for himself and Mr. SARBANES) proposed an amendment to the 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; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Consumer Credit Reporting System Improvement Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

SEC. 111. DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following:

''(q) DEFINITIONS RELATING TO FRAUD ALERTS.—

''(1) ACTIVE DUTY MILITARY CONSUMER.—The term 'active duty military consumer' means a consumer in military service who—

''(A) is on active duty (as defined in section 101(d)(1) of title 10, United States Code) or is a reservist performing duty under a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10, United States Code; and

''(B) is assigned to service away from the usual duty station of the consumer.

''(2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms 'fraud alert' and 'active duty alert' mean a statement in the file of a consumer that—

''(A) notifies all prospective users of a consumer report relating to the consumer that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable;

''(B) provides to all prospective users of a consumer report relating to the consumer, a telephone number or other reasonable contact method designated by the consumer for the user to obtain authorization from the consumer before establishing new credit (including providing any increase in a credit limit with respect to an existing credit account) in the name of the consumer; and

''(C) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) or (B) by any person requesting such consumer report.

''(r) CREDIT CARD.—The term 'credit card' has the same meaning as in section 103 of the Truth in Lending Act.

''(s) DEBIT CARD.—The term 'debit card' means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

''(t) ACCOUNT AND ELECTRONIC FUND TRANSFER.—The terms 'account' and 'electronic fund transfer' have the same meanings as in section 903 of the Electronic Fund Transfer Act.

''(u) CREDIT AND CREDITOR—The terms 'credit' and 'creditor' have the same meanings as in section 702 of the Equal Credit Opportunity Act.

''(v) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

''(w) FINANCIAL INSTITUTION.—The term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds an account belonging to a consumer.

''(x) RESELLER.—The term 'reseller' means a consumer reporting agency that—

''(1) assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

''(2) does not maintain a database of the assembled or merged information from which new consumer reports are produced.

''(y) DEFINITIONS RELATING TO CREDIT SCORES.—

''(1) CREDIT SCORE AND KEY FACTORS.—When used in connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

''(A) the term 'credit score'—

''(i) means a numerical value or categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit behaviors, including default; and

''(ii) does not include—

''(I) any mortgage score or rating of an automated underwriting system that considers 1 or more factors in addition to credit information, including the loan-to-value ratio, the amount of down payment, or the financial assets of a consumer; or

''(II) other elements of the underwriting process or underwriting decision; and

''(B) the term 'key factors' means all relevant elements or reasons affecting the credit score for a consumer, listed in the order of their importance, based on their respective effects on the credit score.

''(2) DWELLING.—The term 'dwelling' has the same meaning as in section 103 of the Truth in Lending Act.

''(z) IDENTITY THEFT REPORT.—The term 'identity theft report' means a report—

''(1) that alleges an identity theft;

''(2) that is filed by a consumer with an appropriate Federal, State, or local government agency, including the United States Postal Inspection Service and any law enforcement agency; and

''(3) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.''.

SEC. 112. FRAUD ALERTS AND ACTIVE DUTY ALERTS.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605 the following:

''§ 605A. Identity theft prevention; fraud alerts and active duty alerts

''(a) ONE-CALL FRAUD ALERTS.—

''(1) INITIAL ALERTS.—Upon the request of a consumer who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall—

''(A) include a fraud alert in the file of that consumer for a period of not less than 90 days, beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

''(B) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

''(2) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

''(A) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 612(d); and

''(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

''(b) EXTENDED ALERTS.—

''(1) IN GENERAL.—Upon the request of a consumer who submits an identity theft report to a consumer reporting agency described in section 603(p) that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

''(A) include a fraud alert in the file of that consumer during the 7-year period beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period and the agency has received appropriate proof of the identity of the requester for such purpose;

''(B) during the 7-year period beginning on the date of such request, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

''(C) refer the information regarding the extended fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

''(2) VERIFICATION OF IDENTITY THEFT CLAIM.—For purposes of paragraph (1), a consumer reporting agency shall accept as proof of a claim of identity theft, in lieu of an identity theft report—

''(A) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(B) any affidavit of fact that is acceptable to the consumer reporting agency for that purpose.

''(3) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

''(A) disclose to the consumer that the consumer may request 2 free copies of the file of the consumer pursuant to section 612(d) during the 12-month period beginning on the date on which the fraud alert was included in the file; and

''(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

''(c) ACTIVE DUTY ALERTS.—Upon the request of an active duty military consumer, a consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

''(1) include an active duty alert in the file of that active duty military consumer during a period of not less than 12 months, beginning on the date of the request, unless the active duty military consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose;

''(2) during the 12-month period beginning on the date of such request, exclude the active duty military consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

''(3) refer the information regarding the active duty alert to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

''(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall establish policies and procedures to comply with this section, including procedures that allow consumers and active duty military consumers to request temporary, extended, or active duty alerts (as applicable) in a simple and easy manner, including by telephone.

''(e) REFERRALS OF FRAUD ALERTS.—Each consumer reporting agency described in section 603(p) that receives a referral of a fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

''(1) paragraphs (1)(A) and (2) of subsection (a), in the case of a referral under subsection (a)(1)(B);

''(2) paragraphs (1)(A), (1)(B), and (3) of subsection (b), in the case of a referral under subsection (b)(1)(C); and

''(3) paragraphs (1) and (2) of subsection (c), in the case of a referral under subsection (c)(3).

''(f) DUTY OF RESELLER TO RECONVEY ALERT.—A reseller shall include in its report any fraud alert or active duty alert placed in the file of a consumer pursuant to this section by another consumer reporting agency.

''(g) DUTY OF OTHER CONSUMER REPORTING AGENCIES TO PROVIDE CONTACT INFORMATION.—If a consumer contacts any consumer reporting agency that is not described in section 603(p) to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, the agency shall provide information to the consumer on how to contact the Federal Trade Commission and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts under this section.''.

SEC. 113. TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following:

''(g) TRUNCATION OF CREDIT CARD AND DEBIT CARD NUMBERS.—

''(1) IN GENERAL.—Except as otherwise specifically provided in this subsection, no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card account number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.

''(2) LIMITATION.—This subsection applies only to receipts that are electronically printed, and does not apply to transactions in which the sole means of recording a credit card or debit card account number is by handwriting or by an imprint or copy of the card.

''(3) EFFECTIVE DATE.—This subsection shall become effective—

''(A) 3 years after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is in use before January 1, 2005; and

''(B) 1 year after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is first put into use on or after January 1, 2005.''.

SEC. 114. ESTABLISHMENT OF PROCEDURES FOR THE IDENTIFICATION OF POSSIBLE INSTANCES OF IDENTITY THEFT.

(a) IN GENERAL.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) by striking ''(e)'' at the end; and

(2) by adding at the end the following:

''(e) RED FLAG GUIDELINES AND REGULATIONS REQUIRED.—

''(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

''(A) establish and maintain guidelines for use by each financial institution and each other person that is a creditor or other user of a consumer report regarding identity theft with respect to account holders at, or customers of, such entities, and update such guidelines as often as necessary; and

''(B) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to establish reasonable policies and procedures for implementing the guidelines established pursuant to paragraph (1), to identify possible risks to account holders or to the safety and soundness of the institution or customers.

''(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft.

''(4) CONSISTENCY WITH VERIFICATION REQUIREMENTS.—Policies and procedures established pursuant to paragraph (1) shall not be inconsistent with, or duplicative of, the policies and procedures required under section 5318(l) of title 31, United States Code.

''(f) INVESTIGATION OF CHANGES OF ADDRESS.—

''(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission, in carrying out the responsibilities of such agencies under subsection (e) shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2), prescribe regulations applicable to card issuers to ensure that, if any such card issuer receives a request for an additional or replacement card for an existing account not later than 30 days after the card issuer has received notification of a change of address for the same account, the card issuer will follow reasonable policies and procedures that prohibit, as appropriate, the card issuer from issuing the additional or replacement card, unless the card issuer—

''(A) notifies the cardholder of the request at the former address of the cardholder and provides to the cardholder a means of promptly reporting incorrect address changes;

''(B) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or

''(C) uses other means of assessing the validity of the change of address, in accordance with reasonable policies and procedures established by the card issuer in accordance with the regulations prescribed under subsection (e).

''(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(3) DEFINITION OF CARD ISSUER.—For purposes of this subsection, the term 'card issuer' means—

''(A) any person who issues a credit card, or the agent of such person with respect to such card; and

''(B) any person who issues a debit card.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 115. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking ''transfers'' and inserting ''transfers, possesses,''; and

(B) by striking ''abet,'' and inserting ''abet, or in connection with,'';

(2) in subsection (b)(1)(D), by striking ''transfer'' and inserting ''transfer, possession,''; and

(3) in subsection (b)(2), by striking ''three years'' and inserting ''5 years''.

SEC. 116. AUTHORITY TO TRUNCATE SOCIAL SECURITY NUMBERS.

Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended by striking ''except that nothing'' and inserting the following: ''except that—

''(A) if the consumer to whom the file relates requests that the first 5 digits of the social security number (or similar identification number) of the consumer not be included in the disclosure and the consumer reporting agency has received appropriate proof of the identity of the requester, the consumer reporting agency shall so truncate such number in such disclosure; and

''(B) nothing''.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

SEC. 151. SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.

(a) IN GENERAL.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following:

''(d) SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.—

''(1) IN GENERAL.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall prescribe the form and content of a summary of the rights of consumers under this title with respect to the procedures for remedying the effects of fraud or identity theft involving credit, electronic fund transfers, or accounts or transactions at or with a financial institution.

''(2) SUMMARY OF RIGHTS AND CONTACT INFORMATION.—If any consumer contacts a consumer reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with the model summary of rights prepared by the Federal Trade Commission under paragraph (1) and information on how to contact the Commission to obtain more detailed information.''.

(b) PUBLIC CAMPAIGN TO PREVENT IDENTITY THEFT.—Not later than 2 years after the date of enactment of this Act, the Federal Trade Commission shall establish and implement a media and distribution campaign to teach the public how to prevent identity theft. Such campaign shall include existing Federal Trade Commission education materials, as well as radio, television, and print public service announcements, video cassettes, interactive digital video discs (DVD's) or compact audio discs (CD's), and Internet resources.

(c) CONFORMING AMENDMENT.—Section 624(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(3), regarding relation to State laws) is amended by striking ''section 609(c)'' and inserting ''subsection (c) or (d) of section 609''.

SEC. 152. BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605A, as added by this Act, the following:

''§ 605B. Block of information resulting from identity theft

''(a) BLOCK.—Except as otherwise provided in this section, a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, not later than 3 business days after the date of receipt by such agency of—

''(1) appropriate proof of the identity of the consumer;

''(2) a copy of an identity theft report; and

''(3) the identification of such information by the consumer.

''(b) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under subsection (a)—

''(1) that the information may be a result of identity theft;

''(2) that an identity theft report has been filed;

''(3) that a block has been requested under this section; and

''(4) of the effective dates of the block.

''(c) AUTHORITY TO DECLINE OR RESCIND.—

''(1) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of information relating to a consumer under this section, if the consumer reporting agency reasonably determines that—

''(A) the information was blocked in error or a block was requested by the consumer in error;

''(B) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact relevant to the request to block; or

''(C) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

''(2) NOTIFICATION TO CONSUMER.—If a block of information is declined or rescinded under this subsection, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under section 611(a)(5)(B).

''(3) SIGNIFICANCE OF BLOCK.—For purposes of this subsection, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

''(d) EXCEPTION FOR RESELLERS.—

''(1) NO RESELLER FILE.—This section shall not apply to a consumer reporting agency, if the consumer reporting agency—

''(A) is a reseller;

''(B) is not, at the time of the request of the consumer under subsection (a), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

''(C) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

''(2) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if—

''(A) the consumer, in accordance with the provisions of subsection (a), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and

''(B) the consumer reporting agency is a reseller of the identified information.

''(3) NOTICE.—In carrying out its obligation under paragraph (2), the reseller shall promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.

''(e) EXCEPTION FOR VERIFICATION COMPANIES.—The provisions of this section do not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, except that, beginning 3 business days after receipt of information described in paragraphs (1) through (3) of subsection (a), a check services company shall not report to a national consumer reporting agency described in section 603(p), any information identified in the

subject identity theft report as resulting from identity theft.

''(f) ACCESS TO BLOCKED INFORMATION BY LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this title.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after the item relating to section 605 the following new items:

''605A. Identity theft prevention; fraud alerts and active duty alerts.

''605B. Block of information resulting from identity theft.''.

SEC. 153. COORDINATION OF IDENTITY THEFT COMPLAINT INVESTIGATIONS.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following:

''(f) COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.—

''(1) IN GENERAL.—Each consumer reporting agency described in section 603(p) shall develop and maintain procedures for the referral to each other such agency of any consumer complaint received by the agency alleging identity theft, or requesting a fraud alert under section 605A or a block under section 605B.

''(2) MODEL FORM AND PROCEDURE FOR REPORTING IDENTITY THEFT.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall develop a model form and model procedures to be used by consumers who are victims of identity theft for contacting and informing creditors and consumer reporting agencies of the fraud.

''(3) ANNUAL SUMMARY REPORTS.—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the Federal Trade Commission on consumer complaints received by the agency on identity theft or fraud alerts.''.

SEC. 154. PREVENTION OF REPOLLUTION OF CONSUMER REPORTS.

(a) PREVENTION OF REINSERTION OF ERRONEOUS INFORMATION.—

(1) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—Section 623(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following:

''(2) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—A person that furnishes information to any consumer reporting agency shall—

''(A) have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 605B relating to information resulting from identity theft, to prevent that person from refurnishing such blocked information; and

''(B) take the actions described in subparagraphs (A) through (D) of paragraph (1), if such person receives directly from a consumer, an identity theft report or a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission.''; and

(C) in paragraph (3), as redesignated, by striking ''paragraph (1)'' and inserting ''this subsection''.

(2) CONFORMING AMENDMENTS RELATING TO NOTICE OF IDENTITY THEFT DIRECTLY FROM CONSUMERS.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)(1)) is amended—

(A) in the matter preceding subparagraph (A), by inserting ''or as described in paragraph (2)(B),'' after ''agency,'';

(B) subparagraph (B), by inserting before the semicolon the following: '', and by the consumer, and other documentation reasonably available to the person that is necessary to conduct a reasonable investigation''; and

(C) in subparagraph (C), by inserting before the semicolon at the end the following: '', and to the consumer, if notice of the dispute was received directly from the consumer, as described in paragraph (2)(B)''.

(b) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(g) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—

''(1) IN GENERAL.—No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 605B has resulted from identity theft.

''(2) APPLICABILITY.—The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit—

''(A) the repurchase of a debt in any case in which the assignee of the debt requires such repurchase because the debt has resulted from identity theft;

''(B) the securitization of a debt; or

''(C) the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction, or transfer of substantially all of the assets of an entity.''.

SEC. 155. NOTICE BY DEBT COLLECTORS WITH RESPECT TO FRAUDULENT INFORMATION.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(h) DEBT COLLECTOR COMMUNICATIONS CONCERNING IDENTITY THEFT.—If a person acting as a debt collector (as that term is defined in title VIII) on behalf of a third party that is a creditor or other user of a consumer report is notified that any information relating to a debt that the person is attempting to collect may be fraudulent or may be the result of identity theft, that person shall—

''(1) notify the third party that the information may be fraudulent or may be the result of identity theft; and

''(2) upon request of the consumer to whom the debt purportedly relates, provide to the consumer all information to which the consumer would otherwise be entitled if the consumer were not a victim of identity theft, but wished to dispute the debt under provisions of law applicable to that person.''.

SEC. 156. STATUTE OF LIMITATIONS.

Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

''§ 618. Jurisdiction of courts; limitation of actions

''An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

''(1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

''(2) 7 years after the date on which the violation that is the basis for such liability occurs.''.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

SEC. 211. FREE CREDIT REPORTS.

(a) IN GENERAL.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended—

(1) by redesignating subsection (a) as subsection (f), and transferring it to the end of the section;

(2) by inserting before subsection (b) the following:

''(a) FREE ANNUAL DISCLOSURE.—

''(1) IN GENERAL.—A consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 once during any 12-month period upon request of the consumer and without charge to the consumer, only if the request is made by mail or through an Internet website using the centralized system and the standardized form established for such requests in accordance with section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

''(2) TIMING.—A consumer reporting agency shall provide a consumer report under paragraph (1) not later than 15 days after the date on which the request is received under paragraph (1).

''(3) REINVESTIGATIONS.—Notwithstanding the time periods specified in section 611(a)(1), a reinvestigation under that section by a consumer reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.'';

(3) by redesignating subsection (d) as subsection (e);

(4) by inserting before subsection (e), as redesignated, the following:

''(d) FREE DISCLOSURES IN CONNECTION WITH FRAUD ALERTS.—Upon the request of a consumer, a consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 without charge to the consumer, as provided in subsections (a)(2) and (b)(3) of section 605A, as applicable.'';

(5) in subsection (e), as redesignated, by striking ''subsection (a)'' and inserting ''subsection (f)''; and

(6) in subsection (f), as redesignated, by striking ''Except as provided in subsections (b), (c), and (d), a'' and inserting ''In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a''.

(b) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

''(c) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—

''(1) COMMISSION SUMMARY OF RIGHTS REQUIRED.—

''(A) IN GENERAL.—The Federal Trade Commission shall prepare a model summary of the rights of consumers under this title.

''(B) CONTENT OF SUMMARY.—The summary of rights prepared under subparagraph (A) shall include a description of—

''(i) the right of a consumer to obtain a copy of a consumer report under subsection (a) from each consumer reporting agency;

''(ii) the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge under section 612;

''(iii) the right of a consumer to dispute information in the file of the consumer under section 611;

''(iv) the right of a consumer to obtain a credit score from a consumer reporting agency, and a description of how to obtain a credit score; and

''(v) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge, as provided in the regulations of the Federal Trade Commission prescribed under section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

''(C) AVAILABILITY OF SUMMARY OF RIGHTS.—The Federal Trade Commission shall—

''(i) actively publicize the availability of the summary of rights prepared under this paragraph;

''(ii) conspicuously post on its Internet website the availability of such summary of rights; and

''(iii) promptly make such summary of rights available to consumers, on request.

''(2) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH AGENCY DISCLOSURES.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

''(A) the summary of rights prepared by the Federal Trade Commission under paragraph (1);

''(B) in the case of a consumer reporting agency described in section 603(p), a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours;

''(C) a list of all Federal agencies responsible for enforcing any provision of this title, and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

''(D) a statement that the consumer may have additional rights under State law, and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general (or the equivalent thereof) to learn of those rights; and

''(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from the file of a consumer, unless the information is outdated under section 605 or cannot be verified.''.

(c) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal Trade Commission shall prescribe regulations applicable to consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act to require the establishment of—

(A) a centralized source, through which consumers may obtain a consumer report from each consumer reporting agency described in that section 603(p) using a single request and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act (as amended by this Act);

(B) a standardized form for a consumer to make such a request for a consumer report by mail or through an Internet website; and

(C) streamlined methods by which such a consumer reporting agency shall provide such consumer reports, after consideration of—

(i) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(ii) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports using a quarterly method based on the birth month of the consumer; and

(iii) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(2) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 6 months after the date on which they are issued in final form.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective on the effective date of the regulations prescribed by the Federal Trade Commission in accordance with subsection (c).

SEC. 212. CREDIT SCORES.

(a) DUTIES OF CONSUMER REPORTING AGENCIES TO DISCLOSE CREDIT SCORES.—

(1) IN GENERAL.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following:

''(6) In connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

''(A) the current, or most recent, credit score of the consumer that was previously calculated by the agency;

''(B) the range of possible credit scores under the model used;

''(C) the key factors, if any, not to exceed 4, that adversely affected the credit score of the consumer in the model used;

''(D) the date on which the credit score was created; and

''(E) the name of the person or entity that provided the credit score or the credit file on the basis of which the credit score was created.''.

(2) LIMITATIONS ON REQUIRED PROVISION OF CREDIT SCORE.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by this Act, is amended by adding at the end the following:

''(e) LIMITATIONS ON REQUIRED PROVISION OF CREDIT SCORE.—

''(1) IN GENERAL.—Subsection (a)(6) may not be construed—

''(A) to compel a consumer reporting agency to develop or disclose a credit score if the agency does not, in the ordinary course of its business—

''(i) distribute scores that are used in connection with extensions of credit secured by residential real property; or

''(ii) develop credit scores that assist creditors in understanding the general credit behavior of the consumer and predicting future credit behavior;

''(B) to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of those scores, or to process a dispute arising pursuant to section 611(a), except that the consumer reporting agency shall be required to provide to the consumer the name and information for contacting the person or entity that developed the score;

''(C) to require a consumer reporting agency to maintain credit scores in its files; or

''(D) to compel disclosure of a credit score, except upon specific request of the consumer, except that if a consumer requests the credit file and not the credit score, then the consumer shall be provided with the credit file and a statement that the consumer may request and obtain a credit score.

''(2) PROVISION OF SCORING MODEL.—In complying with subsection (a)(6) and this subsection, a consumer reporting agency shall supply to the consumer—

''(A) a credit score that is derived from a credit scoring model that is widely distributed to users of credit scores by that consumer reporting agency in connection with any extension of credit secured by a dwelling; or

''(B) a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about future credit behavior.''.

(3) CONFORMING AMENDMENT.—Section 609(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)(B)), as so designated by section 116, is amended by inserting before the period '', other than as provided in paragraph (6)''.

(b) DUTIES OF USERS OF CREDIT SCORES.—

(1) IN GENERAL.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(i) DUTIES OF USERS OF CREDIT SCORES.—

''(1) DISCLOSURES.—Any person that makes or arranges extensions of credit for consumer purposes that are to be secured by a dwelling and that uses credit scores for that purpose, shall be required to provide to the consumer to whom the credit score relates, as soon as is reasonably practicable after such use—

''(A) a copy of the information described in section 609(a)(6) that was obtained from a consumer reporting agency or that was developed and used by that user of the credit score information; or

''(B) if the user of the credit score information obtained such information from a third party that developed such information (other than a consumer reporting agency or the user itself), only—

''(i) a copy of the information described in section 609(a)(6) provided to the user by the person or entity that developed the credit score; and

''(ii) a notice that generally describes credit scores, their use, and the sources and kinds of data used to generate credit scores.

''(2) RULE OF CONSTRUCTION.—This subsection may not be construed to require the user of a credit score described in paragraph (1)—

''(A) to explain to the consumer the information provided pursuant to section 609(a)(6), unless that information was developed by the user;

''(B) to disclose any information other than a credit score or the key factors required to be disclosed under section 609(a)(6)(C);

''(C) to disclose any credit score or related information obtained by the user after a transaction occurs; or

''(D) to provide more than 1 disclosure under this subsection to any 1 consumer per credit transaction.

''(3) LIMITATION.—Except as otherwise provided in this subsection, the obligation of a user of a credit score under this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency or other person. A user of a credit score has no liability under this subsection for the content of credit score information received from a consumer reporting agency or for the omission of any information within the report provided by the consumer reporting agency.''.

(2) CONFORMING AMENDMENT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended in the section heading, by adding at the end the following: ''**and credit scores**''.

(c) CONTRACTUAL LIABILITY.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following:

''(d) USE OF CREDIT SCORES.—Any provision of any contract that prohibits the disclosure of a credit score by a consumer reporting agency or a person who makes or arranges extensions of credit to the consumer to whom the credit score relates is void. A user of a credit score shall not have liability

under any such contractual provision for disclosure of a credit score.''.

(d) RELATION TO STATE LAWS.—Section 624(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), regarding relation to State laws) is amended—

(1) in subparagraph (E), by striking ''or'' at the end; and

(2) by adding at the end the following:

''(G) subsections (a)(6) and (e) of section 609, relating to the disclosure of credit scores by consumer reporting agencies in connection with an application for an extension of credit that is to be secured by a dwelling;

''(H) section 615(i), relating to the duties of users of credit scores to disclose credit score information to consumers in connection with an application for an extension of credit that is to be secured by a dwelling; or''.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 180 days after the date of enactment of this Act.

SEC. 213. ENHANCED DISCLOSURE OF THE MEANS AVAILABLE TO OPT OUT OF PRESCREENED LISTS.

(a) NOTICE AND RESPONSE FORMAT FOR USERS OF REPORTS.—Section 615(d)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)(2)) is amended to read as follows:

''(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER; FORMAT.—A statement under paragraph (1) shall—

''(A) include the address and toll-free telephone number of the appropriate notification system established under section 604(e); and

''(B) be presented in such format and in such type size and manner as is established by the Federal Trade Commission, by rule, in consultation with the Federal banking agencies and the National Credit Union Administration.''.

(b) RULEMAKING SCHEDULE.—Regulations required by section 615(d)(2) of the Fair Credit Reporting Act, as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act.

(c) DURATION OF ELECTIONS.—Section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)) is amended in each of paragraphs (3)(A) and (4)(B)(i)), by striking ''2-year period'' each place that term appears and inserting ''7-year period''.

(d) PUBLIC AWARENESS CAMPAIGN.—The Federal Trade Commission shall actively publicize and conspicuously post on its website any address and the toll-free telephone number established as part of a notification system for opting out of prescreening under section 604(e), and otherwise take measures to increase public awareness regarding the availability of the right to opt out of prescreening.

SEC. 214. AFFILIATE SHARING.

(a) LIMITATION.—The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) by redesignating section 624 (regarding relation to State laws), as so designated by section 2413(b) of the Consumer Credit Reporting Reform Act of 1996 (110 Stat. 3009–447), as section 625;

(2) by redesignating section 624 (regarding disclosures to FBI for counterintelligence purposes), as added by section 601(a) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974) (15 U.S.C. 1681u)), as section 626; and

(3) by inserting after section 623 the following:

''SEC. 624. AFFILIATE SHARING.

''(a) SPECIAL RULE FOR SOLICITATION FOR PURPOSES OF MARKETING.—

''(1) NOTICE.—Any person that receives from another person related to it by common ownership or affiliated by corporate control a communication of information that would be a consumer report, except for clauses (i) through (iii) of section 603(d)(2)(A), may not use the information to make a solicitation for marketing purposes to a consumer about its products or services, unless—

''(A) it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons for purposes of making such solicitations to the consumer; and

''(B) the consumer is provided an opportunity and a simple method to prohibit the making of such solicitations to the consumer by such person.

''(2) CONSUMER CHOICE.—

''(A) IN GENERAL.—The notice required under paragraph (1) shall allow the consumer the opportunity to prohibit all such solicitations, and may allow the consumer to choose from different options when electing to prohibit the sending of such solicitations, including options regarding the types of entities and information covered, and which methods of delivering solicitations the consumer elects to prohibit.

''(B) FORMAT.—Notwithstanding subparagraph (A), the notice required under paragraph (1) must be clear, conspicuous, and concise, and any method provided under paragraph (1)(B) must be simple. The regulations prescribed to implement this section shall provide specific guidance regarding how to comply with such standards.

''(3) DURATION.—The election of the consumer pursuant to paragraph (1)(B) to prohibit the sending of solicitations shall be effective for 5 years, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked before the end of such period. At such time as the election of the consumer pursuant to paragraph (1)(B) is no longer effective, a person may not use information it receives as described in paragraph (1) to make a solicitation for marketing purposes to such consumer unless the consumer receives a notice and an opportunity to extend the opt out for another period of 5 years, pursuant to the procedure described in paragraph (1).

''(4) SCOPE.—This section shall not apply to a person—

''(A) using information to make a solicitation for marketing purposes to a consumer with whom the person has a pre-existing business relationship;

''(B) using information to perform services on behalf of another person related by common ownership or affiliated by corporate control, except that this subparagraph shall not permit a person to send solicitations on behalf of another person if such other person would not be permitted to send the solicitation on its own behalf as a result of the election of the consumer to prohibit solicitations under paragraph (1)(B);

''(C) using information in direct response to a communication initiated by the consumer in which the consumer has requested information about a product or service; or

''(D) using information to directly respond to solicitations authorized or requested by the consumer.

''(b) NOTICE FOR OTHER PURPOSES PERMISSIBLE.—A notice or other disclosure that is equivalent to the notice required by subsection (a), and that is provided by a person described in subsection (a) to a consumer together with disclosures required by any other provision of law shall satisfy the requirements of subsection (a).''.

(b) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act, and in coordination as described in paragraph (2), prescribe regulations to implement section 624 of the Fair Credit Reporting Act, as added by this section.

(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Federal Trade Commission shall—

(A) ensure that affiliate sharing notification methods provide a simple means for consumers to make determinations and choices under section 624 of the Fair Credit Reporting Act, as added by this section; and

(B) consider the affiliate sharing notification practices employed on the date of enactment of this Act by persons that will be subject to that section 624.

(4) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 3 months after the date on which they are issued in final form.

(c) CONFORMING AMENDMENT.—Section 603(d)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)) is amended by inserting ''subject to section 624,'' after ''(A)''.

(d) CLERICAL AMENDMENT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended in the table of sections, by striking the items following the item relating to section 623 and inserting the following:

''624. Affiliate sharing.
''625. Relation to State laws.
''626. Disclosures to FBI for counterintelligence purposes.''.

(e) STUDIES OF INFORMATION SHARING PRACTICES.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

(2) MATTERS FOR STUDY.—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

(A) identify—

(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

(ii) the types of information shared by such entities with their affiliates;

(iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to and manner in which consumers exercise such choices, if at all; and

(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or

(II) of general publication of such information; and

(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

(3) REPORTS.—

(A) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

(B) FOLLOWUP REPORTS.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on credit reports for such decisions.

(f) DEFINITIONS.—As used in this section—

(1) the terms ''consumer'', ''consumer report'', ''consumer reporting agency'', ''creditor'', ''Federal banking agencies'', and ''financial institution'', have the same meanings as in section 603 of the Fair Credit Reporting Act, as amended by this Act; and

(2) the term ''affiliates'' means persons that are related by common ownership or affiliated by corporate control.

SEC. 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.

(a) DEFINED TERM.—As used in this section, the term ''credit score'' means a numerical value or a categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit or insurance behaviors, including default.

(b) STUDY REQUIRED.—The Federal Trade Commission shall conduct a study of—

(1) the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial products and services, including credit cards, mortgages, auto loans, and property and casualty insurance;

(2) the degree of correlation between the factors considered by credit score systems and the quantifiable risks and actual losses experienced by businesses, including the extent to which each of the factors considered or otherwise taken into account by such systems correlated to risk or loss;

(3) the extent to which the use of credit scoring models, credit scores and credit-based insurance scores benefit or negatively impact persons based on geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed; and

(4) the extent to which credit scoring systems are used by businesses, the factors considered by such systems, and the effects of variables which are not considered by such systems.

(c) PUBLIC PARTICIPATION.—The Federal Trade Commission shall seek public input about the prescribed methodology and research design of the study required by subsection (b).

(d) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of enactment of this Act, the Federal Trade Commission shall submit a detailed report on the study conducted under this section to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the findings and conclusions of the Commission;

(B) recommendations to address specific areas of concern that were identified in the study; and

(C) recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurances score are used appropriately and fairly.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

SEC. 311. RISK-BASED PRICING NOTICE.

(a) DUTIES OF USERS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(j) DUTIES OF USERS IN CERTAIN CREDIT TRANSACTIONS.—

''(1) IN GENERAL.—Subject to rules prescribed as provided in paragraph (5), if any person uses a consumer report in connection with a grant, extension, or other provision of credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person shall provide a notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

''(2) EXCEPTIONS.—No notice shall be required from a person under this subsection if—

''(A) the consumer applied for specific material terms and was granted those terms, unless those terms were initially specified by the person after the transaction was initiated by the consumer and after the person obtained a consumer report; or

''(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

''(3) OTHER NOTICE NOT SUFFICIENT.—A person that is required to provide a notice under subsection (a) cannot meet that requirement by providing a notice under this subsection.

''(4) CONTENT AND DELIVERY OF NOTICE.—A notice under this subsection shall include, at a minimum—

''(A) a statement informing the consumer that the terms offered to the consumer were set based on information from a consumer report;

''(B) identification of the consumer reporting agency that furnished that report;

''(C) a statement informing the consumer that the consumer may obtain a copy of a consumer report from that consumer reporting agency without charge; and

''(D) the contact information specified by that consumer reporting agency for obtaining such consumer reports (including a toll-free telephone number established by the agency in the case of a consumer reporting agency described in section 603(p)).

''(5) RULEMAKING.—

''(A) RULES REQUIRED.—The Federal Trade Commission and the Board of Governors of the Federal Reserve System shall jointly prescribe rules, in accordance with section 553 of title 5, United States Code, to carry out this subsection.

''(B) CONTENT.—Rules required by subparagraph (A) shall address, but are not limited to—

''(i) the form, content, time, and manner of delivery of any notice under this subsection;

''(ii) clarification of the meaning of terms used in this subsection, including what credit terms are material, and when credit terms are materially less favorable;

''(iii) exceptions to the notice requirement under this subsection for classes of persons or transactions regarding which the agencies determine that notice would not significantly benefit consumers; and

''(iv) a model notice that may be used to comply with this subsection.''.

(b) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), regarding relation to State laws), as so designated and amended by this Act, is amended by adding at the end the following:

''(I) section 615(j), relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;''.

SEC. 312. PROCEDURES TO ENHANCE THE ACCURACY AND COMPLETENESS OF INFORMATION FURNISHED TO CONSUMER REPORTING AGENCIES.

(a) ACCURACY GUIDELINES AND REGULATIONS.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 15 U.S.C. 1681s–2) is amended by adding at the end the following:

''(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

''(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

''(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and completeness of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

''(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

''(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall—

''(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and completeness of information furnished to consumer reporting agencies;

''(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

''(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to provide complete and accurate information to consumer reporting agencies; and

''(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has

been furnished to consumer reporting agencies.''.

(b) FURNISHER LIABILITY EXCEPTION.—Section 623(a)(5) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(5)) is amended—

(1) by striking ''A person'' and inserting the following:

''(A) IN GENERAL.—A person'';

(2) by inserting ''date of delinquency on the account, which shall be the'' before ''month'';

(3) by inserting ''on the account'' before ''that immediately preceded''; and

(4) by adding at the end the following:

''(B) RULE OF CONSTRUCTION.—For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes information on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

''(i) the person reports the same date of delinquency as that provided by the creditor to which the account was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported that date of delinquency to a consumer reporting agency;

''(ii) the creditor did not previously report the date of delinquency to a consumer reporting agency, and the person establishes and follows reasonable procedures to obtain the date of delinquency from the creditor or another reliable source and reports that date as the date of delinquency; or

''(iii) the creditor did not previously report the date of delinquency to a consumer reporting agency and the date of delinquency cannot be reasonably obtained as provided in clause (ii), the person establishes and follows reasonable procedures to ensure the date reported as the date of delinquency precedes the date on which the account is placed for collection, charged to profit or loss, or subjected to any similar action, and reports such date to the credit reporting agency.''.

(c) LIABILITY AND ENFORCEMENT.—

(1) CIVIL LIABILITY.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended by striking subsections (c) and (d) and inserting the following:

''(c) LIMITATION ON LIABILITY.—Except as provided in section 621(c)(1)(B), sections 616 and 617 do not apply to any violation of—

''(1) subsection (a) of this section;

''(2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability under section 616 or 617, as applicable, for violations of subsection (b) of this section;

''(3) subsection (e) or (f) of section 615; or

''(4) subparagraph (A) of subsection (b)(2) of this section that is based on the development of procedures required by that subparagraph, except that refurnishing information otherwise in violation of subsection (b) shall be subject to liability under sections 616 and 617, as applicable, to the same extent as such a refurnishing violation was subject to such liability on the day before the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

''(d) LIMITATION ON ENFORCEMENT.—The provisions of law described in paragraphs (1) through (4) of subsection (c) (other than with respect to the exceptions described in paragraphs (2) and (4) of subsection (c)) shall be enforced exclusively as provided under section 621 by the Federal agencies and officials and the State officials identified in section 621.''.

(2) STATE ACTIONS.—Section 621(c) of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)) is amended—

(A) in paragraph (1)(B)(ii), by striking ''of section 623(a)'' and inserting ''described in any of paragraphs (1) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))''; and

(B) in paragraph (5)—

(i) in each of subparagraphs (A) and (B), by inserting after ''section 623(a)(1)'' each place that term appears the following: ''or a violation described in any of paragraphs (2) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))''; and

(ii) by amending the paragraph heading to read as follows:

''(5) LIMITATIONS ON STATE ACTIONS FOR CERTAIN VIOLATIONS.—''.

(d) RULE OF CONSTRUCTION.—Nothing in this section, the amendments made by this section, or any other provision of this Act shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n, 1681o) that existed on the day before the date of enactment of this Act.

SEC. 313. FEDERAL TRADE COMMISSION AND CONSUMER REPORTING AGENCY ACTION CONCERNING COMPLAINTS.

Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

''(e) TREATMENT OF COMPLAINTS AND REPORT TO CONGRESS.—

''(1) IN GENERAL.—The Federal Trade Commission shall—

''(A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 603(p) contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a); and

''(B) transmit each such complaint to each consumer reporting agency involved.

''(2) EXCLUSION.—Complaints received or obtained by the Federal Trade Commission pursuant to its investigative authority under the Federal Trade Commission Act shall not be subject to this paragraph (1).

''(3) AGENCY RESPONSIBILITIES.—Each consumer reporting agency described in section 603(p) that receives a complaint transmitted by the Federal Trade Commission pursuant to paragraph (1) shall—

''(A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this title (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;

''(B) provide reports on a regular basis to the Commission regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and

''(C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.

''(4) RULEMAKING AUTHORITY.—The Federal Trade Commission may prescribe regulations in accordance with the requirements of section 553 of title 5, United States Code, as appropriate to implement this subsection.

''(5) ANNUAL REPORT.—The Federal Trade Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Commission under this subsection.''.

SEC. 314. ONGOING AUDITS OF THE ACCURACY OF CONSUMER REPORTS.

(a) AUDITS REQUIRED.—The Board of Governors of the Federal Reserve System (in this section referred to as ''the Board'') shall conduct ongoing audits of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies. The Board shall independently verify the accuracy and completeness of information contained in consumer reports by evaluating information and data provided by consumer reporting agencies (as defined in section 603 of the Fair Credit Reporting Act).

(b) SUBJECT MATTERS.—In conducting audits under this section, the Board shall examine—

(1) the accuracy and completeness of information contained in consumer reports, including an analysis of the type of inaccurate or incomplete information, if any, that may have the most significant impact on the availability and terms of various credit products offered to borrowers; and

(2) the impact, if any, of incomplete and inaccurate information on the credit and credit-based insurance scores that are most widely used to determine borrower credit worthiness and to make insurance underwriting and rating decisions, including an analysis of how, if at all, changes to credit scores resulting from inaccurate or incomplete credit reporting information affect the availability and terms of various credit products offered to borrowers.

(c) BIENNIAL REPORTS REQUIRED.—

(1) IN GENERAL.—The Board shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at the end of the 2-year period beginning on the date of enactment of this Act. Thereafter, the Board shall conduct additional audits and submit additional reports once every 2 years.

(2) CONTENTS.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Board with respect to the audits required by this section, and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

(d) PROVISION OF REPORTS TO THE BOARD FOR PURPOSES OF ANALYSIS.—Section 604(d) of the Fair Credit Reporting Act (12 U.S.C. 1681b(d)) is amended to read as follows:

''(d) FURNISHING CONSUMER REPORTS FOR ACCURACY OR COMPLIANCE AUDITS.—A consumer reporting agency shall provide consumer reports to the Board of Governors of the Federal Reserve System, upon request, for the purpose of conducting an accuracy or compliance audit in accordance with section 314 of the National Consumer Credit Reporting System Improvement Act of 2003.''.

SEC. 315. IMPROVED DISCLOSURE OF THE RESULTS OF REINVESTIGATION.

(a) IN GENERAL.—Section 611(a)(5)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by striking ''shall'' and all that follows through the end of the subparagraph, and inserting the following: ''shall—

''(i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and

''(ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.''.

(b) FURNISHER REQUIREMENTS RELATING TO INACCURATE, INCOMPLETE, OR UNVERIFIABLE INFORMATION.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)(1)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end; and

(2) in subparagraph (D), by striking the period at the end and inserting the following: ''; and

''(E) if an item of any information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), promptly delete that item of information from the furnisher's records or modify that item of information, as appropriate, based on the results of the reinvestigation.''.

SEC. 316. RECONCILING ADDRESSES.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c), as amended by this Act, is amended by adding at the end the following:

''(h) NOTICE OF DISCREPANCY IN ADDRESS.—

''(1) IN GENERAL.—If a person has requested a consumer report relating to a consumer from a consumer reporting agency described in section 603(p), the request includes an address for the consumer that substantially differs from the addresses in the file of the consumer, and the agency provides a consumer report in response to the request, the consumer reporting agency shall notify the requester of the existence of the discrepancy.

''(2) REGULATIONS.—

''(A) REGULATIONS REQUIRED.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in subparagraph (B), prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

''(B) COORDINATION.—Each agency required to prescribe regulations under subparagraph (A) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(C) POLICIES AND PROCEDURES TO BE INCLUDED.—The regulations prescribed under subparagraph (A) shall describe reasonable policies and procedures for use by a user of a consumer report—

''(i) to form a reasonable belief that the user knows the identity of the person to whom the consumer report pertains; and

''(ii) if the user establishes a continuing relationship with the consumer, and the user regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of discrepancy pertaining to the consumer was obtained, to reconcile the address of the consumer with the consumer reporting agency by furnishing such address to such consumer reporting agency as part of information regularly furnished by the user for the period in which the relationship is established.''.

SEC. 317. FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Federal Trade Commission shall conduct a study on ways to improve the operation of the Fair Credit Reporting Act.

(2) AREAS FOR STUDY.—In conducting the study under paragraph (1), the Federal Trade Commission shall review—

(A) the efficacy of increasing the number of points of identifying information that a credit reporting agency is required to match to ensure that a consumer is the correct individual to whom a consumer report relates before releasing a consumer report to a user, including—

(i) the extent to which requiring additional points of such identifying information to match would—

(I) enhance the accuracy of credit reports; and

(II) combat the provision of incorrect consumer reports to users;

(ii) the extent to which requiring an exact match of the first and last name, social security number, and address and ZIP Code of the consumer would enhance the likelihood of increasing credit report accuracy; and

(iii) the effects of allowing consumer reporting agencies to use partial matches of social security numbers and name recognition software on the accuracy of credit reports;

(B) requiring notification to consumers when negative information has been added to their credit reports, including—

(i) the potential impact of such notification on the ability of consumers to identify errors on their credit reports; and

(ii) the potential impact of such notification on the ability of consumers to remove fraudulent information from their credit reports;

(C) the effects of requiring that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action, including—

(i) the extent to which providing such reports to consumers would increase the ability of consumers to identify errors in their credit reports; and

(ii) the extent to which providing such reports to consumers would increase the ability of consumers to remove fraudulent information from their credit reports;

(D) any common financial transactions that are not generally reported to the consumer reporting agencies, but would provide useful information in determining the credit worthiness of consumers; and

(E) any actions that might be taken within a voluntary reporting system to encourage the reporting of the types of transactions described in subparagraph (D).

(3) COSTS AND BENEFITS.—With respect to each area of study described in paragraph (2), the Federal Trade Commission shall consider the extent to which such requirements would benefit consumers, balanced against the cost of implementing such provisions.

(b) REPORT REQUIRED.—Not later than 270 days after the date of enactment of this Act, the chairman of the Federal Trade Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study under this section, together with such recommendations for legislative or administrative actions as may be appropriate.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

SEC. 411. PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM.

(a) IN GENERAL.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is amended to read as follows:

''(g) PROTECTION OF MEDICAL INFORMATION.—

''(1) LIMITATION ON CONSUMER REPORTING AGENCIES.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information about a consumer, unless—

''(A) if furnished in connection with an insurance transaction, the consumer affirmatively consents to the furnishing of the report;

''(B) if furnished for employment purposes or in connection with a credit transaction—

''(i) the information to be furnished is relevant to process or effect the employment or credit transaction; and

''(ii) the consumer provides specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or

''(C) such information is restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer, unless the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance, other than property and casualty insurance.

''(2) LIMITATION ON CREDITORS.—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

''(3) ACTIONS AUTHORIZED BY FEDERAL LAW, INSURANCE ACTIVITIES AND REGULATORY DETERMINATIONS.—Section 603(d)(3) shall not be construed so as to treat information or any communication of information as a consumer report if the information or communication is disclosed—

''(A) in connection with the business of insurance or annuities, including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners (as in effect on January 1, 2003);

''(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act, or described in section 502(e) of Public Law 106–102; or

''(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Federal Trade Commission, any Federal banking agency or the National Credit Union Administration (with respect to any financial institution subject to the jurisdiction of such agency or Administration under paragraph (1), (2), or (3) of section 621(b), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

''(4) LIMITATION ON REDISCLOSURE OF MEDICAL INFORMATION.—Any person that receives medical information pursuant to paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

''(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

''(A) REGULATIONS REQUIRED.—Each Federal banking agency and the National Credit Union Administration shall, subject to paragraph (6) and after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs, consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

''(B) FINAL REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall issue the

regulations required under subparagraph (A) in final form before the end of the 6-month period beginning on the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

''(6) COORDINATION WITH OTHER LAWS.—No provision of this subsection shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.''.

(b) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

(1) in paragraph (2), by striking ''The term'' and inserting ''Except as provided in paragraph (3), the term''; and

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

''(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect to information disclosed to any person related by common ownership or affiliated by corporate control, if—

''(A) the information is medical information; or

''(B) the information is an individualized list or description based on a consumer's payment transactions for medical products or services, or an aggregate list of identified consumers based on payment transactions for medical products or services.''.

(c) EFFECTIVE DATES.—This section shall take effect at the end of the 180-day period beginning on the date of enactment of this Act, except that paragraph (2) of section 604(g) of the Fair Credit Reporting Act (as amended by subsection (a)) shall take effect on the later of—

(1) the end of the 90-day period beginning on the date on which the regulations required under paragraph (5)(B) of such section 604(g) (as added by subsection (a) of this section) are issued in final form; or

(2) the date specified in the regulations referred to in paragraph (1).

SEC. 412. CONFIDENTIALITY OF MEDICAL CONTACT INFORMATION IN CONSUMER REPORTS.

(a) DUTIES OF MEDICAL INFORMATION FURNISHERS.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended by adding at the end the following:

''(6) DUTY TO PROVIDE NOTICE OF STATUS AS MEDICAL INFORMATION FURNISHER.—A person whose primary business is providing medical services, products, or devices, or the person's agent or assignee, who furnishes information to a consumer reporting agency on a consumer shall be considered a medical information furnisher for purposes of this title, and shall notify the agency of such status.''.

(b) RESTRICTION OF DISSEMINATION OF MEDICAL CONTACT INFORMATION.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following:

''(6) The name, address, and telephone number of any medical information furnisher that has notified the agency of its status, unless—

''(A) such name, address, and telephone number are restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer; or

''(B) the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance other than property and casualty insurance.''.

(c) NO EXCEPTIONS ALLOWED FOR DOLLAR AMOUNTS.—Section 605(b) of the Fair Credit Reporting Act (15 U.S.C. 1681c(b)) is amended by striking ''The provisions of subsection (a)'' and inserting ''The provisions of paragraphs (1) through (5) of subsection (a)''.

(d) COORDINATION WITH OTHER LAWS.—No provision of any amendment made by this section shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.

(e) FTC REGULATION OF CODING OF TRADE NAMES.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), as amended by this Act, is amended by adding at the end the following:

''(g) FTC REGULATION OF CODING OF TRADE NAMES.—If the Federal Trade Commission determines that a person described in paragraph (6) of section 623(a) has not met the requirements of such paragraph, the Commission shall take action to ensure the person's compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures as necessary to ensure that such person complies with such paragraph.''.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)), as amended by section 411 of this Act, is amended—

(1) in paragraph (1), by inserting ''(other than medical contact information treated in the manner required under section 605(a)(6))'' after ''a consumer report that contains medical information''; and

(2) in paragraph (2), by inserting ''(other than medical information treated in the manner required under section 605(a)(6))'' after ''a creditor shall not obtain or use medical information''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 15-month period beginning on the date of enactment of this Act.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

SEC. 511. SHORT TITLE.

This title may be cited as the ''Financial Literacy and Education Improvement Act''.

SEC. 512. DEFINITIONS.

As used in this title—

(1) the term ''Chairperson'' means the Chairperson of the Financial Literacy and Education Commission; and

(2) the term ''Commission'' means the Financial Literacy and Education Commission established under section 513.

SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the ''Financial Literacy and Education Commission''.

(b) PURPOSE.—The Commission shall serve to improve the financial literacy and education of persons in the United States.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(C) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

(2) ALTERNATES.—Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an individual who exercises significant decision-making authority.

(d) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson.

(e) MEETINGS.—The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this title.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) INITIAL MEETING.—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

SEC. 514. DUTIES OF THE COMMISSION.

(a) DUTIES.—

(1) IN GENERAL.—The Commission, through the authority of the members referred to in section 513(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(2) AREAS OF EMPHASIS.—To improve financial literacy and education, the Commission shall emphasize, among other elements, basic personal income and household money management and planning skills, including how to—

(A) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(B) manage spending, credit, and debt, including credit card debt, effectively;

(C) increase awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

(D) ascertain fair and favorable credit terms;

(E) avoid abusive, predatory, or deceptive credit offers and financial products;

(F) understand, evaluate, and compare financial products, services, and opportunities;

(G) understand resources that ought to be easily accessible and affordable, and that inform and educate investors as to their rights and avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries; and

(H) improve financial literacy and education through all other related skills.

(b) WEBSITE.—

(1) IN GENERAL.—The Commission shall establish and maintain a website, such as the domain name ''FinancialLiteracy.gov'', or a similar domain name.

(2) PURPOSES.—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content and that feature information about financial literacy and education programs, materials, or campaigns; and

(E) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) TOLL-FREE HOTLINE.—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) DEVELOPMENT AND DISSEMINATION OF MATERIALS.—The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) COORDINATION OF EFFORTS.—The Commission shall take such steps as are necessary to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) NATIONAL STRATEGY.—

(1) IN GENERAL.—The Commission shall—

(A) not later than 18 months after the date of enactment of this Act, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) coordinate Federal efforts to implement the strategy developed under subparagraph (A).

(2) STRATEGY.—The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of financial services and products; and

(ii) to enhance the general understanding of financial services and products;

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to improve coordination of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) NATIONAL STRATEGY REVIEW.—The Commission shall, not less than annually, review the national strategy developed under this subsection and make such changes and recommendations as it deems necessary

(g) CONSULTATION.—The Commission shall actively consult with a variety of representatives from private and nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) REPORTS.—

(1) IN GENERAL.—Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this title.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(B) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(C) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(D) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(E) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decision making;

(F) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(G) information about the activities of the Commission planned for the next fiscal year;

(H) a summary of all Federal financial literacy and education activities targeted to communities that have historically lacked access to financial literacy materials and education, and have been underserved by the mainstream financial systems; and

(I) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) INITIAL REPORT.—The initial report under paragraph (1) shall include information regarding all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs.

(i) TESTIMONY.—The Commission shall provide, upon request, testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 515. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

(c) PERIODIC STUDIES.—The Commission may conduct periodic studies regarding the state of financial literacy and education in the United States, as the Commission determines appropriate.

SEC. 516. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) ASSISTANCE.—

(1) IN GENERAL.—The Director of the Office of Financial Education of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without reimbursement.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 517. STUDY BY THE COMPTROLLER GENERAL.

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this title, including administrative expenses of the Commission.

TITLE VI—RELATION TO STATE LAW

SEC. 611. RELATION TO STATE LAW.

Section 625(d) of the Fair Credit Reporting Act (15 U.S.C. 1681t(d), regarding relation to State laws), as so designated by section 214 of this Act, is amended—

(1) by striking paragraph (2);

(2) by striking ''(c)—'' and all that follows through ''do not affect'' and inserting ''(c) do not affect''; and

(3) by striking ''1996; and'' and inserting ''1996.''.

TITLE VII—MISCELLANEOUS

SEC. 711. CLERICAL AMENDMENTS.

(a) SHORT TITLE.—Section 601 of the Fair Credit Reporting Act (15 U.S.C. 1601 note) is amended by striking ''the Fair Credit Reporting Act.'' and inserting ''the 'Fair Credit Reporting Act'.''.

(b) SECTION 604.—Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended in paragraphs (1) through (5), other than subparagraphs (E) and (F) of paragraph (3), by moving each margin 2 ems to the right.

(c) SECTION 605.—

(1) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by striking ''(1) cases'' and inserting ''(1) Cases''.

(2)(A) Section 5(1) of Public Law 105–347 (112 Stat. 3211) is amended by striking ''Judgments which'' and inserting ''judgments which''.

(B) The amendment made by subparagraph (A) shall be deemed to have the same effective date as section 5(1) of Public Law 105–347 (112 Stat. 3211).

(d) SECTION 609.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended—

(1) in paragraph (2), by moving the margin 2 ems to the right; and

(2) in paragraph (3)(C), by moving the margins 2 ems to the left.

(e) SECTION 617.—Section 617(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681o(a)(1)) is amended by adding ''and'' at the end.

(f) SECTION 621.—Section 621(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(B)) is amended by striking ''25(a)'' and inserting ''25A''.

(g) TITLE 31.—Section 5318 of title 31, United States Code, is amended by redesignating the second item designated as subsection (l) (relating to applicability of rules) as subsection (m).

(h) CONFORMING AMENDMENT.—Section 2411(c) of Public Law 104–208 (110 Stat. 3009–445) is repealed.

SA 2054. Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. HARKIN, Mr. FEINGOLD, Mr. DURBIN, Mr. LAUTENBERG, and Mr. NELSON of Florida) proposed an amendment to the 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; as follows:

Strike section 214 and insert the following:

SEC. 214. AFFILIATE SHARING.

(a) LIMITATION.—The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) by redesignating section 624, as so designated by section 2413(b) of the Consumer Credit Reporting Reform Act of 1996 (110 Stat. 3009–447), regarding relation to State laws, as section 625;

(2) by redesignating section 624, as added by section 601(a) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974) (15 U.S.C. 1681u)), regarding disclosures to FBI for counterintelligence purposes, as section 626; and

(3) by inserting after section 623 the following:

"SEC. 624. AFFILIATE SHARING.

''(a) OPT-OUT FOR AFFILIATE SHARING.—Any persons that are related by common ownership or affiliated by corporate control, and that share information that would be a consumer report except for clause (i) or (ii) of section 603(d)(2), shall provide to each consumer to which the information relates, a notice that—

''(1) clearly and conspicuously discloses to the consumer that the information may be shared among such persons for marketing or other purposes; and

''(2) provides an opportunity and a simple method for the consumer to prohibit the sharing of such information.

''(b) EXCEPTIONS.—Nothing in this section shall restrict or prohibit the sharing of the information described in subsection (a) between persons related by common ownership or affiliated by corporate control—

''(1) if—

''(A) the persons are regulated by the same functional regulator;

''(B) the affiliate disclosing such information and the affiliate receiving such information are both principally engaged in the same line of business;

''(C) the affiliate disclosing such information and the affiliate receiving such information share a common brand, excluding a brand consisting solely of a graphic element or symbol, within their trade mark, service mark, or trade name, which is used to identify the source of the products and services provided; and

''(D) the affiliate disclosing such information and the affiliate receiving such information are wholly owned subsidiaries, whether wholly owned directly or wholly owned indirectly in a chain of wholly owned subsidiaries, of the same person or holding company;

''(2) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer, or in connection with—

''(A) servicing or processing a financial product or service requested or authorized by the consumer;

''(B) maintaining or servicing the consumer's account with any such affiliate as part of a private label credit card program or other extension of credit on behalf of such entity; or

''(C) a proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer;

''(3) with the consent or at the direction of the consumer;

''(4) to protect the confidentiality or security of an affiliate's records pertaining to the consumer, the service or product, or the transaction therein;

''(5) to protect against or prevent actual or potential fraud, identity theft, unauthorized transactions, claims, or other liability;

''(6) for required institutional risk control, or for resolving customer disputes or inquiries;

''(7) to persons holding a legal or beneficial interest relating to the consumer, including for purposes of debt collection;

''(8) to persons acting in a fiduciary or representative capacity on behalf of the consumer;

''(9) to provide information to insurance rate advisory organizations, guaranty funds or agencies, applicable rating agencies, persons assessing an affiliate's compliance with industry standards, and an affiliate's attorneys, accountants, and auditors;

''(10) to the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978, to law enforcement agencies (including a Federal functional regulator, the Secretary of the Treasury with respect to subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), a State insurance authority, the Federal Trade Commission), a self-regulatory organization, as defined in section 3 of the Securities Exchange Act of 1934, or for an investigation on a matter related to public safety;

''(11) in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of the information concerns solely consumers of such business or unit;

''(12) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities, or to respond to judicial process or government regulatory authorities having jurisdiction over the affiliate for examination, compliance, or other purposes as authorized by law;

''(13) if such information is released to an affiliate in order for the affiliate to perform business or professional services, such as printing, mailing services, data processing or analysis, or customer surveys, on behalf of another affiliate, if—

''(A) the services to be performed by the affiliate could lawfully be performed by the affiliate;

''(B) there is a written contract between the affiliates that prohibits the affiliate from disclosing or using such information other than to carry out the purpose for which the information is disclosed, as set forth in the written contract;

''(C) the information provided to the affiliate is limited to that which is necessary for an affiliate to perform the services contracted for on behalf of the other affiliate; and

''(D) the affiliate providing the information does not receive any payment from or through the affiliate receiving the information in connection with, or as a result of, the release of the information;

''(14) if the information is released to identify or locate missing and abducted children, witnesses, criminals and fugitives, parties to lawsuits, parents delinquent in child support payments, organ and bone marrow donors, pension fund beneficiaries, and missing heirs, or to report a known or suspected instance of elder or dependent adult financial abuse;

''(15) if the information is released to a real estate appraiser licensed or certified by a State for submission to central data repositories and the information is compiled strictly to complete other real estate appraisals and is not used for any other purpose;

''(16) if the information is released as required by title III of the Federal United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the USA PATRIOT ACT); or

''(17) if the information is released in connection with a written agreement between a consumer and a broker-dealer registered under the Securities Exchange Act of 1934, or an investment adviser registered under the Investment Advisers Act of 1940, to provide investment management services, portfolio advisory services, or financial planning, and the information is released for the sole purpose of providing the products and services covered by that agreement.

''(c) NO EFFECT ON EXISTING LAW.—Nothing in this section is intended to affect any provision of law in effect on the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003 relating to access by law enforcement agencies to information held by financial institutions.

''(d) LIMIT ON REUSE AND REDISCLOSURE.—A person that receives information pursuant to—

''(1) paragraph (1) of subsection (b) shall not directly or indirectly further disclose such information, except as permitted under subsection (b); and

''(2) any of paragraphs (2) through (17) of subsection (b) shall not use or disclose the information, except in the ordinary course of business to carry out the activity covered by the exception under which the information was received.

''(e) NOTICE FOR OTHER PURPOSES PERMISSIBLE.—A notice or other disclosure that is equivalent to the notice required by subsection (a), and that is provided by a person described in subsection (a) to a consumer, together with disclosures required by any other provision of law, shall satisfy the requirements of subsection (a).

''(f) RULE OF CONSTRUCTION.—For purposes of this section, a person does not disclose information to, or share information, with, its affiliate solely because information described in subsection (a) is maintained in a common information system or database, and employees of the person and its affiliate have access to that common information system or database, or a consumer accesses a website jointly operated or maintained under a common name by or on behalf of the person and its affiliate, provided that in any case in which a consumer has exercised his or her right to prohibit the sharing of information pursuant to this section, the information described in subsection (a) is not accessed, disclosed, or used by an affiliate, except as permitted by this section.

''(g) DEFINITIONS.—

''(1) FUNCTIONAL REGULATORS.—For purposes of subsection (b)(1)—

''(A) financial institutions regulated by the Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration, or a State regulator of depository institutions shall be deemed to be regulated by the same functional regulator;

''(B) persons regulated by the Securities and Exchange Commission, the United States Department of Labor, or a State securities regulator shall be deemed to be regulated by the same functional regulator; and

''(C) insurers licensed by a State, or otherwise permitted by the State, to engage in the business of insurance shall be deemed to be in compliance with subsection (b)(2).

''(2) LINE OF BUSINESS.—As used in subsection (b)(2), the term 'same line of business' describes a condition where both affiliates are principally engaged in the business of—

''(A) insurance;

''(B) banking;

''(C) securities; or

''(D) any other distinct line of business identified, by rule, by the Federal Trade Commission.''.

(b) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission shall jointly promulgate regulations to implement section 624 of the Fair Credit Reporting Act, as amended by this section.

(2) CONSIDERATIONS.—In promulgating regulations under this subsection, the agencies referred to in paragraph (1) shall—

(A) ensure that affiliate sharing notification methods provide a simple means for consumers to make determinations and choices under section 624 of the Fair Credit Reporting Act as amended by this section; and

(B) consider the affiliate sharing notification practices employed on the date of enactment of this Act by persons that will be subject to that section 624.

(3) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 3 months after the date on which they are issued in final form.

(c) CONFORMING AMENDMENT.—Section 603(d)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)) is amended by inserting ''subject to section 624,'' after ''(A)''.

(d) CLERICAL AMENDMENT.—The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended in the table of sections for title VI, by striking the items following the item relating to section 623 and inserting the following:

''624. Affiliate sharing.
''625. Relation to State laws.
''626. Disclosures to FBI for counterintelligence purposes.''.

(e) STUDIES OF INFORMATION SHARING PRACTICES.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

(2) MATTERS FOR STUDY.—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

(A) identify—

(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

(ii) the types of information shared by such entities with their affiliates;

(iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to and manner in which consumers exercise such choices, if at all; and

(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or

(II) of general publication of such information; and

(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

(3) REPORTS.—

(A) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

(B) FOLLOWUP REPORTS.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on credit reports for such decisions.

(f) DEFINITIONS.—As used in this section—

(1) the terms ''consumer'', ''consumer report'', ''consumer reporting agency'', ''creditor'', ''Federal banking agencies'', and ''financial institution'', have the same meanings as in section 603 of the Fair Credit Reporting Act, as amended by this Act; and

(2) the term ''affiliates'' means persons that are related by common ownership or affiliated by corporate control.

SA 2055. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 63, strike line 20, and all that follows through page 64, line 11, and insert the following:

In addition, for the costs of worldwide security upgrades, $644,373,000, to remain available until expended.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $157,000,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 shall not apply to funds available under this heading.

SA 2056. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 75, strike lines 1 through 22.

SA 2057. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 98, strike line 23 and all that follows through page 99, line 18.

On page 77, between lines 20 and 21, insert the following new section:

(TRANSFER OF FUNDS)

SEC. 413. The funds appropriated in title II under the heading ''INTERNATIONAL FISHERIES COMMISSIONS'' are hereby transferred to the Secretary of State for the purposes described, and may be advanced as provided, under such heading.

SA 2058. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 20 and 21, insert the following new section:

SEC. 413. It is the sense of Congress that the total amount requested by the President for the Congress-Bundestag youth exchange program, $2,994,000, should be made available for the program in fiscal year 2004.

SA 2059. Ms. CANTWELL (for herself, Mr. ENZI, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the 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; as follows:

On page 22, line 6, strike the quotation marks and the final period and insert the following:

''(e) INFORMATION AVAILABLE TO VICTIMS.—

''(1) IN GENERAL.—For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 20 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

''(A) the victim;

''(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim in such a request; or

''(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

''(2) VERIFICATION OF IDENTITY AND CLAIM.—Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, is otherwise able to verify the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

''(A) as proof of positive identification of the victim, at the election of the business entity—

''(i) the presentation of a government-issued identification card;

''(ii) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

''(iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim's request for information, including any documentation described in clauses (i) and (ii); and

''(B) as proof of a claim of identity theft, at the election of the business entity—

''(i) a copy of a police report evidencing the claim of the victim of identity theft; and

''(ii) a properly completed—

''(I) copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(II) an affidavit of fact that is acceptable to the business entity for that purpose.

''(3) PROCEDURES.—The request of a victim under paragraph (1) shall—

''(A) be in writing; and

''(B) be mailed to an address specified by the business entity, if any.

''(4) NO CHARGE TO VICTIM.—Information required to be provided under paragraph (1) shall be so provided without charge.

''(5) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

''(A) this subsection does not require disclosure of the information;

''(B) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or

''(C) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

''(6) LIMITATION ON LIABILITY.—Except as provided in section 621, sections 616 and 617 do not apply to any violation of this subsection.

''(7) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

''(8) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—No provision of Federal or State law (except a law involving the nondisclosure of information related to a pending Federal criminal investigation) prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this subsection.

''(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

''(9) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

''(A) the business entity has made a reasonably diligent search of its available business records; and

''(B) the records requested under this subsection do not exist or are not available.

''(10) DEFINITION OF VICTIM.—For purposes of this subsection, the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, identity theft or any other violation of law.''.

On page 33, line 6, strike ''7'' and insert ''5''.

On page 41, line 19, strike ''(e)'' and insert ''(f)''.

On page 47, line 1, strike ''(e)'' and insert ''(f)''.

SA 2060. Mrs. BOXER (for herself and Mrs. FEINSTEIN) proposed an amendment to the 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; as follows:

On page 50, strike line 12 and all that follows through page 51, line 3 and insert the following:

''(3) DURATION.—The election of a consumer pursuant to paragraph (1)(B) to prohibit the sending of solicitations shall be effective permanently, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

''(4) DEFINITION.—For purposes of this section, the term 'pre-existing business relationship' means a relationship between a person and a consumer, based on—

''(A) the purchase, rental, or lease by the consumer of that person's goods or services, or a financial transaction between the consumer and that person during the 18-month period immediately preceding the date on which the consumer receives the notice required under this section; or

''(B) an inquiry or application by the consumer regarding a product or service offered by that person, during the 3-month period immediately preceding the date on which the consumer receives the notice required under this section.

''(5) SCOPE.—This section shall not apply to a''.

SA 2061. Mrs. FEINSTEIN (for herself, Mrs. BOXER, and Mr. KENNEDY) proposed an amendment to the 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; as follows:

On page 81, strike lines 6 through 15 and insert the following: ''to any person related by common ownership or affiliated by corporate control, if the information is medical information, including information that is an individualized list or description based on the payment transactions of the consumer for medical products or services, or an aggregate list of identified consumers based on payment transactions for medical products or services.''.

(c) DEFINITION.—Section 603(i) of the Fair Credit Reporting Act (15 U.S.C. 1681a(i)) is amended to read as follows:

''(i) MEDICAL INFORMATION.—The term 'medical information' means information or data, other than age or gender, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

''(1) the past, present, or future physical, mental, or behavioral health or condition of an individual;

''(2) the provision of health care to an individual; or

''(3) the payment for the provision of health care to an individual.''.

SA 2062. Mr. DURBIN proposed an amendment to the 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; as follows:

At the end of section 312, insert the following:

(c) REPORTS TO CONSUMER REPORTING AGENCIES.—

(1) REPORTS.—Section 430A(a) of the Higher Education Act of 1965 (20 U.S.C. 1080a(a)) is amended to read as follows:

''(a) AGREEMENTS TO EXCHANGE INFORMATION.—

''(1) IN GENERAL.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this title or covered by a guaranty agreement pursuant to section 428, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into an agreement with each national consumer reporting agency as described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) to exchange such information as is required by the Secretary concerning each borrower of a loan made, insured, or guaranteed under this title who is served by the Secretary, agency, lender, or holder, respectively, regardless of the default status of the borrower. Such information shall be reported to the agencies regularly, shall be identified as pertaining to such a loan, and shall include any positive or negative repayment information relevant to the borrower.

''(2) OBJECTIONS RAISED BY BORROWERS.—For the purpose of assisting the reporting agencies in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from the reporting agencies, for responses to objections raised by borrowers.

''(3) NONPAYMENT.—Subject to the requirements of subsection (c), such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to the reporting agencies, with respect to any loan under this

part that has not been repaid by the borrower—

''(A) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

''(B) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

''(C) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(A) in section 427(a)(2)(G)(i) (20 U.S.C. 1077(a)(2)(G)(i)), by striking ''credit bureau organizations'' and inserting ''reporting agencies'';

(B) in section 428C(b)(4)(E)(i) (20 U.S.C. 1078–3(b)(4)(E)(i)), by striking ''credit bureau organizations'' and inserting ''reporting agencies''; and

(C) in section 430A (20 U.S.C. 1080a)—

(i) in subsection (b)—

(I) by striking ''such organizations'' and inserting ''the reporting agencies''; and

(II) by striking ''(a)(2)'' and inserting ''(a)(3)(B)'';

(ii) in subsection (c)(2), by striking ''such organizations'' and inserting ''the reporting agencies'';

(iii) in subsection (b)(4)—

(I) by striking ''(a)(2)'' and inserting ''(a)(3)(B)''; and

(II) by striking ''credit bureau organizations'' and inserting ''the reporting agencies'';

(iv) in subsection (d), by striking ''credit bureau organization'' and inserting ''reporting agency''; and

(v) in subsection (f), by striking ''consumer reporting agency'' each place the term appears and inserting ''reporting agency''.

SA 2063. Mr. LAUTENBERG (for himself, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. BOXER, Mr. CORZINE, Mr. SCHUMER, Mr. LEAHY, Mr. LIEBERMAN, Mr. KERRY, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2861, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 98, line 5, before the period at the end, insert the following: '', of which, in addition to any other amounts provided under this heading for compliance monitoring, civil enforcement, and capacity building in the Office of Enforcement and Compliance Assurance, $5,400,000 shall be made available for those activities''.

SA 2064. Mr. CORZINE proposed an amendment to the 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; as follows:

On page 16, line 25, strike the period at the end and insert the following: ''; and

''(C) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to notify the Federal Trade Commission (and any other agency or person that such rulemaking agency determines appropriate) in any case in which there has been, or is reasonably believed to have been unauthorized access to computerized or physical records which compromises the security, confidentiality, or integrity of consumer information maintained by or on behalf of that entity, except that such regulations shall not apply to a good faith acquisition of information by an employee or agent of such entity for a business purpose of that entity, if the information is not subject to further unauthorized access.''.

SA 2065. Mr. FEINGOLD proposed an amendment to the 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; as follows:

At the appropriate place, insert the following:

SEC. ___. DATA-MINING REPORTING ACT OF 2003.

(a) SHORT TITLE.—This section may be cited as the ''Data-Mining Reporting Act of 2003''.

(b) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(c) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the department or agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that will be used.

(B) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(C) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(D) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(E) A list and analysis of the laws and regulations that govern the information to be collected, reviewed, gathered, and analyzed with the data-mining technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(F) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(G) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the technology. If no such procedures are in place, a thorough explanation as to why not.

(H) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be—

(A) submitted not later than 90 days after the date of the enactment of this Act; and

(B) updated once a year and include any new data-mining technologies.

SA 2066. Mr. FEINGOLD proposed an amendment to the 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; as follows:

At the end of title VII, add the following:

SEC. 712. BUY AMERICAN REPORT.

(a) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the head of each Federal agency shall submit a report to Congress on the amount of the acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States in that fiscal year.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall separately indicate—

(1) the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States;

(2) an itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.); and

(3) a summary of the total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States.

(c) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under subsection (a) shall make the report publicly available by posting on an Internet website.

SA 2067. Mr. SHELBY (for Mr. NELSON of Florida) proposed an amendment to the 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; as follows:

At the end of title II, add the following:

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following:

"§ 627. Disposal of records

''(a) REGULATIONS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Federal Trade Commission shall issue final regulations requiring any person that maintains or otherwise possesses consumer information or any compilation of consumer information derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

''(2) EXEMPTION AUTHORITY.—In issuing regulations under this section, the Federal Trade Commission may exempt any person or class of persons from application of those regulations, as the Commission deems appropriate to carry out the purpose of this section.

''(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect any requirement imposed under any other provision of law to maintain any record.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by this Act, is amended by adding at the end the following:

''627. Disposal of records.''.

SA 2068. Mr. CRAPO (for himself and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, strike line 7 and insert the following:

the provisions of this title.''.

DIVISION B—HEALTHY FORESTS RESTORATION

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Healthy Forests Restoration Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

SEC. 2. PURPOSES.

The purposes of this division are—

(1) to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects;

(2) to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuel, and petroleum-based product substitutes, and for other commercial purposes;

(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

(4) to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health;

(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

(6) to protect, restore, and enhance forest ecosystem components—

(A) to promote the recovery of threatened and endangered species;

(B) to improve biological diversity; and

(C) to enhance productivity and carbon sequestration.

SEC. 3. DEFINITIONS.

In this division:

(1) FEDERAL LAND.—The term ''Federal land'' means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C 1609(a))) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

TITLE I—HAZARDOUS FUEL REDUCTION ON FEDERAL LAND

SEC. 101. DEFINITIONS.

In this title:

(1) AT-RISK COMMUNITY.—The term ''at-risk community'' means an area—

(A) that is comprised of—

(i) an interface community as defined in the notice entitled ''Wildland Urban Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire'' issued by the Secretary of Agriculture and the Secretary of the Interior in accordance with title IV of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 1009) (66 Fed. Reg. 753, January 4, 2001); or

(ii) a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land;

(B) in which conditions are conducive to a large-scale wildland fire disturbance event; and

(C) for which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

(2) AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECT.—The term ''authorized hazardous fuel reduction project'' means the measures and methods described in the definition of ''appropriate tools'' contained in the glossary of the Implementation Plan, on Federal land described in section 102(a) and conducted under sections 103 and 104.

(3) COMMUNITY WILDFIRE PROTECTION PLAN.—The term ''community wildfire protection plan'' means a plan for an at-risk community that—

(A) is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsibile for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

(B) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and

(C) recommends measures to reduce structural ignitability throughout the at-risk community.

(4) CONDITION CLASS 2.—The term ''condition class 2'', with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled ''Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management'' (RMRS–87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(5) CONDITION CLASS 3.—The term ''condition class 3'', with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (4) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(6) DAY.—The term ''day'' means—

(A) a calendar day; or

(B) if a deadline imposed by this title would expire on a nonbusiness day, the end of the next business day.

(7) DECISION DOCUMENT.—The term ''decision document'' means—

(A) a decision notice (as that term is used in the Forest Service Handbook);

(B) a decision record (as that term is used in the Bureau of Land Management Handbook); and

(C) a record of decision (as that term is used in applicable regulations of the Council on Environmental Quality).

(8) FIRE REGIME I.—The term ''fire regime I'' means an area—

(A) in which historically there have been low-severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low elevation forests of pine, oak, or pinyon juniper.

(9) FIRE REGIME II.—The term ''fire regime II'' means an area—

(A) in which historically there are stand replacement severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low- to mid-elevation rangeland, grassland, or shrubland.

(10) FIRE REGIME III.—The term ''fire regime III'' means an area—

(A) in which historically there are mixed severity fires with a frequency of 35 through 100 years; and

(B) that is located primarily in forests of mixed conifer, dry Douglas fir, or wet Ponderosa pine.

(11) IMPLEMENTATION PLAN.—The term ''Implementation Plan'' means the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106–64) (and subsequent revisions).

(12) MUNICIPAL WATER SUPPLY SYSTEM.—The term ''municipal water supply system'' means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water.

(13) RESOURCE MANAGEMENT PLAN.—The term ''resource management plan'' means—

(A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 3(1)(A) under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan prepared for 1 or more units of the public land described in section 3(1)(B) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(14) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 3(1)(A); and

(B) the Secretary of the Interior, with respect to public lands described in section 3(1)(B).

(15) THREATENED AND ENDANGERED SPECIES HABITAT.—The term ''threatened and endangered species habitat'' means Federal land identified in—

(A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a designation of critical habitat of the species under that Act; or

(C) a recovery plan prepared for the species under that Act.

(16) WILDLAND-URBAN INTERFACE.—The term ''wildland-urban interface'' means—

(A) an area within or adjacent to an at-risk community that is identified in recommendations to the Secretary in a community wildfire protection plan; or

(B) in the case of any area for which a community wildfire protection plan is not in effect—

(i) an area extending ½-mile from the boundary of an at-risk community;

(ii) an area extending more than ½-mile from the boundary of an at-risk community, if the land adjacent to the at-risk community—

(I) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community; or

(II) has a geographic feature that aids in creating an effective fire break, such as a road or ridge top, within ¾-mile of the nearest at-risk community boundary; and

(iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuel reduction to provide safer evacuation from the at-risk community.

SEC. 102. AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECTS.

(a) AUTHORIZED PROJECTS.—As soon as practicable after the date of enactment of this Act, the Secretary shall implement authorized hazardous fuel reduction projects, consistent with the Implementation Plan, on—

(1) Federal land in wildland-urban interface areas;

(2) condition class 3 Federal land, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(3) condition class 2 Federal land located within fire regime I, fire regime II, or fire regime III, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(4) Federal land on which windthrow or blowdown, ice storm damage, or the existence of disease or insect infestation, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent non-Federal land;

(5) Federal land not covered by paragraphs (1) through (4) that contains threatened and endangered species habitat, if—

(A) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(B) the authorized hazardous fuel reduction project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(C) the Secretary complies with any applicable guidelines specified in any management or recovery plan described in subparagraph (A).

(b) RELATION TO AGENCY PLANS.—An authorized hazardous fuel reduction project shall be conducted consistent with the resource management plan and other relevant administrative policies or decisions applicable to the Federal land covered by the project.

(c) ACREAGE LIMITATION.—Not more than a total of 20,000,000 acres of Federal land may be treated under authorized hazardous fuel reduction projects.

(d) EXCLUSION OF CERTAIN FEDERAL LAND.—The Secretary may not conduct an authorized hazardous fuel reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress or Presidential proclamation (including the applicable implementation plan); or

(3) a Wilderness Study Area.

(e) OLD GROWTH STANDS.—

(1) DEFINITIONS.—In this subsection and subsection (f):

(A) COVERED PROJECT.—The term ''covered project'' means an authorized hazardous fuel reduction project carried out under paragraph (1), (2), (3), or (5) of subsection (a).

(B) OLD GROWTH STAND.—The term ''old growth stand'' has the meaning given the term under standards used pursuant to paragraphs (3) and (4), based on the structure and composition characteristic of the forest type, and in accordance with applicable law, including section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)).

(C) STANDARDS.—The term ''standards'' means definitions, designations, standards, guidelines, goals, or objectives established for an old growth stand under a resource management plan developed in accordance with applicable law, including section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)).

(2) PROJECT REQUIREMENTS.—In carrying out a covered project, the Secretary shall fully maintain, or contribute toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure.

(3) NEWER STANDARDS.—

(A) IN GENERAL.—If the standards for an old growth stand were established during the 10-year period ending on the date of enactment of this Act, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project by implementing the standards.

(B) AMENDMENTS OR REVISIONS.—Any amendment or revision to standards for which final administrative approval is granted after the date of enactment of this Act shall be consistent with paragraph (2) for the purpose of carrying out covered projects.

(4) OLDER STANDARDS.—

(A) IN GENERAL.—If the standards for an old growth stand were established before the 10-year period described in paragraph (3)(A), the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project by implementing the standards—

(i) during the 2-year period beginning on the date of enactment of this Act; or

(ii) if the Secretary is in the process of revising a resource management plan as of the date of enactment of this Act, during the 3-year period beginning on the date of enactment of this Act.

(B) REVIEW REQUIRED.—During the applicable period described in subparagraph (A) for the standards for an old growth stand under a resource management plan, the Secretary shall—

(i) review the standards, taking into account any relevant scientific information made available since the adoption of the standards; and

(ii) revise the standards to be consistent with paragraph (2), if necessary to reflect relevant scientific information the Secretary did not consider in formulating the resource management plan.

(C) REVIEW NOT COMPLETED.—

(i) IN GENERAL.—If the Secretary does not complete the review of the standards in accordance with subparagraph (B), during the applicable period described in subparagraph (A), the Secretary shall not carry out any portion of a covered project in a stand that is identified as an old growth stand (based on substantial supporting evidence) by any person during scoping.

(ii) PERIOD.—Clause (i) applies during the period—

(I) beginning on the termination of the applicable period for the standards described in subparagraph (A); and

(II) ending on the earlier of—

(aa) the date the Secretary completes the action required by subparagraph (B) for the standards; or

(bb) the date on which the acreage limitation specified in subsection (c) (as that limitation may be adjusted by subsequent Act of Congress) is reached.

(f) LARGE TREE RETENTION.—Except in old growth stands where the standards are consistent with subsection (e)(2), the Secretary shall carry out a covered project in a manner that—

(1) focuses largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(2) maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands and the purposes of section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1976 (16 U.S.C. 1604(g)(3)(B)).

(g) MONITORING AND ASSESSING FOREST AND RANGELAND HEALTH.—

(1) IN GENERAL.—For each Forest Service administrative region and each Bureau of Land Management State Office, the Secretary shall—

(A) monitor the results of the projects authorized under this section; and

(B) not later than 5 years after the date of enactment of this Act, and each 5 years thereafter, issue a report that includes—

(i) an evaluation of the progress towards project goals; and

(ii) recommendations for modifications to the projects and management treatments.

(2) CONSISTENCY OF PROJECTS WITH RECOMMENDATIONS.—An authorized hazardous fuel reduction project approved following the issuance of a monitoring report shall, to the maximum extent practicable, be consistent with any applicable recommendations in the report.

(3) SIMILAR VEGETATION TYPES.—The results of a monitoring report shall be made available in, and (if appropriate) used for, a project conducted in a similar vegetation type on land under the jurisdiction of the Secretary.

(4) MONITORING AND ASSESSMENTS.—From a representative sample of authorized hazardous fuel reduction projects, for each management unit, monitoring and assessment shall include a description of the effects on changes in condition class, using the Fire Regime Condition Class Guidebook or successor guidance, specifically comparing end results to—

(A) pretreatment conditions;

(B) historical fire regimes; and

(C) any applicable watershed or landscape goals or objectives in the resource management plan or other relevant direction.

(5) TRACKING.—For each management unit, the Secretary shall track acres burned, by the degree of severity, by large wildfires (as defined by the Secretary).

(6) MONITORING AND MAINTENANCE OF TREATED AREAS.—The Secretary shall, to the maximum extent practicable, develop a process for monitoring the need for maintenance of treated areas, over time, in order to preserve the forest health benefits achieved.

SEC. 103. PRIORITIZATION.

(a) IN GENERAL.—In accordance with the Implementation Plan, the Secretary shall develop an annual program of work for Federal land that gives priority to authorized hazardous fuel reduction projects that provide for the protection of at-risk communities or watersheds or that implement community wildfire protection plans.

(b) COLLABORATION.—

(1) IN GENERAL.—The Secretary shall consider recommendations under subsection (a) that are made by at-risk communities that have developed community wildfire protection plans.

(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the planning process and recommendations concerning community wildfire protection plans.

(c) ADMINISTRATION.—

(1) IN GENERAL.—Federal agency involvement in a community wildfire protection plan, or a recommendation made in a community wildfire protection plan, shall not be considered a Federal agency action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) COMPLIANCE.—In implementing authorized hazardous fuel reduction projects on Federal land, the Secretary shall, in accordance with section 104, comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) FUNDING ALLOCATION.—

(1) FEDERAL LAND.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall use not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface.

(B) APPLICABILITY AND ALLOCATION.—The funding allocation in subparagraph (A) shall apply at the national level, and the Secretary may allocate the proportion of funds differently than is required under subparagraph (A) within individual management

units as appropriate, in particular to conduct authorized hazardous fuel reduction projects on land described in section 102(a)(4).

(2) NON-FEDERAL LAND.—In providing financial assistance under any provision of law for hazardous fuel reduction projects on non-Federal land, the Secretary shall consider recommendations made by at-risk communities that have developed community wildfire protection plans.

SEC. 104. ENVIRONMENTAL ANALYSIS.

(a) AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECTS.—Except as otherwise provided in this title, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.); and

(2) other applicable laws.

(b) ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENTS.—

(1) IN GENERAL.—The Secretary shall prepare an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2))) for any authorized hazardous fuel reduction project.

(2) ALTERNATIVES.—In the environmental assessment or environmental impact statement prepared under paragraph (1), the Secretary shall study, develop, and describe—

(A) the proposed agency action;

(B) the alternative of no action; and

(C) an additional action alternative, if the additional alternative—

(i) is proposed during scoping or the collaborative process; and

(ii) meets the purpose and need of the project, in accordance with regulations promulgated by the Council on Environmental Quality.

(3) MULTIPLE ADDITIONAL ALTERNATIVES.—If more than 1 additional alternative is proposed under paragraph (2)(C), the Secretary shall—

(A) select which additional alternative to consider; and

(B) provide a written record describing the reasons for the selection.

(c) PUBLIC NOTICE AND MEETING.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each authorized hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines.

(2) PUBLIC MEETING.—During the preparation stage of each authorized hazardous fuel reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuel reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(d) PUBLIC COLLABORATION.—In order to encourage meaningful public participation during preparation of authorized hazardous fuel reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuel reduction project in a manner consistent with the Implementation Plan.

(e) ENVIRONMENTAL ANALYSIS AND PUBLIC COMMENT.—In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuel reduction project.

(f) DECISION DOCUMENT.—The Secretary shall sign a decision document for authorized hazardous fuel reduction projects and provide notice of the final agency actions.

SEC. 105. SPECIAL ADMINISTRATIVE REVIEW PROCESS.

(a) INTERIM FINAL REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process for the period described in paragraph (2) that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land.

(2) PERIOD.—The predecisional administrative review process required under paragraph (1) shall occur during the period—

(A) beginning after the completion of the environmental assessment or environmental impact statement; and

(B) ending not later than the date of the issuance of the final decision approving the project.

(3) EFFECTIVE DATE.—The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(b) FINAL REGULATIONS.—The Secretary shall promulgate final regulations to establish the process described in subsection (a)(1) after the interim final regulations have been published and reasonable time has been provided for public comment.

(c) ADMINISTRATIVE REVIEW.—

(1) IN GENERAL.—A person may bring a civil action challenging an authorized hazardous fuel reduction project in a Federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting—

(A) the administrative review process established by the Secretary of Agriculture under this section; or

(B) the administrative hearings and appeals procedures established by the Department of the Interior.

(2) ISSUES.—An issue may be considered in the judicial review of an action under section 106 only if the issue was raised in an administrative review process described in paragraph (1).

(3) EXCEPTION.—An exception to the requirement of exhausting the administrative review process before seeking judicial review shall be available if a Federal court finds that the futility or inadequacy exception applies to a specific plaintiff or claim.

SEC. 106. JUDICIAL REVIEW IN UNITED STATES DISTRICT COURTS.

(a) VENUE.—Notwithstanding section 1391 of title 28, United States Code, or other applicable law, an authorized hazardous fuels reduction project conducted under this title shall be subject to judicial review only in the United States district court for the district in which the Federal land to be treated under the authorized hazardous fuels reduction project is located.

(b) EXPEDITIOUS COMPLETION OF JUDICIAL REVIEW.—In the judicial review of an action challenging an authorized hazardous fuel reduction project under subsection (a), Congress encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.

(c) INJUNCTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project carried out under this title shall not exceed 60 days.

(2) RENEWAL.—

(A) IN GENERAL.—A court of competent jurisdiction may issue 1 or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) UPDATES.—In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized hazardous fuel reduction project.

(3) BALANCING OF SHORT- AND LONG-TERM EFFECTS.—As part of its weighing the equities while considering any request for an injunction that applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

SEC. 107. EFFECT OF TITLE.

(a) OTHER AUTHORITY.—Nothing in this title affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 102(d)) that is not conducted using the process authorized by section 104.

(b) NATIONAL FOREST SYSTEM.—For projects and activities of the National Forest System other than authorized hazardous fuel reduction projects, nothing in this title affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $760,000,000 for each fiscal year to carry out—

(1) activities authorized by this title; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States for activities authorized by law.

TITLE II—BIOMASS

SEC. 201. FINDINGS.

Congress finds that—

(1)(A) thousands of communities in the United States, many located near Federal land, are at risk of wildfire;

(B) more than 100,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future; and

(C) the accumulation of heavy forest and rangeland fuel loads continues to increase as a result of fire exclusion, disease, insect infestations, and drought, further raising the risk of fire each year;

(2)(A) more than 70,000,000 acres across all land ownerships are at risk of higher than normal mortality during the 15-year period beginning on the date of enactment of this Act because of insect infestation and disease; and

(B) high levels of tree mortality from insects and disease result in—

(i) increased fire risk;

(ii) loss of older trees and old growth;

(iii) degraded watershed conditions;

(iv) changes in species diversity and productivity;

(v) diminished fish and wildlife habitat;

(vi) decreased timber values; and

(vii) increased threats to homes, businesses, and community watersheds;

(3)(A) preventive treatments (such as reducing fuel loads, crown density, ladder fuels, and hazard trees), planting proper species mix, restoring and protecting early successional habitat, and completing other specific restoration treatments designed to reduce the susceptibility of forest and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest and rangeland health, maintenance, and enhancement by creating a mosaic of species-mix and age distribution; and

(B) those vegetation management treatments are widely acknowledged to be more successful and cost-effective than suppression treatments in the case of insects, disease, and fire;

(4)(A) the byproducts of vegetative management treatment (such as trees, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest and rangeland represent an abundant supply of—

(i) biomass for biomass-to-energy facilities; and

(ii) raw material for business; and

(B) there are currently few markets for the extraordinary volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities; and

(5) the United States should—

(A) promote economic and entrepreneurial opportunities in using by-products removed through vegetation treatment activities relating to hazardous fuels reduction, disease, and insect infestation;

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for by-products of preventive treatment activities; and

(C) promote research and development to provide, for the by-products, economically and environmentally sound—

(i) management systems;

(ii) harvest and transport systems; and

(iii) utilization options.

SEC. 202. DEFINITIONS.

In this title:

(1) BIOMASS.—The term ''biomass'' means trees and woody plants (including limbs, tops, needles, other woody parts, and wood waste) and byproducts of preventive treatment (such as wood, brush, thinnings, chips, and slash) that are removed—

(A) to reduce hazardous fuels;

(B) to reduce the risk of or to contain disease or insect infestation; or

(C) to improve forest health and wildlife habitat conditions.

(2) PERSON.—The term ''person'' includes—

(A) an individual;

(B) a community (as determined by the Secretary);

(C) an Indian tribe;

(D) a small business, microbusiness, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(3) PREFERRED COMMUNITY.—The term ''preferred community'' means—

(A) any town, township, municipality, Indian tribe, or other similar unit of local government (as determined by the Secretary) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land that—

(I) is at significant risk of catastrophic wildfire, disease, or insect infestation; or

(II) suffers from disease or insect infestation; or

(B) any area or unincorporated area represented by a nonprofit organization approved by the Secretary, that—

(i) is not wholly contained within a metropolitan statistical area; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land—

(I) the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation; or

(II) that suffers from disease or insect infestation.

(4) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to Federal land under the jurisdiction of the Secretary of the Interior (including land held in trust for the benefit of an Indian tribe).

SEC. 203. GRANTS TO IMPROVE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, COMPOST, VALUE-ADDED PRODUCTS, AND PETROLEUM-BASED PRODUCT SUBSTITUTES.

(a) BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, substitutes for petroleum-based products, wood-based products, pulp, or other commercial products to offset the costs incurred to purchase biomass for use by the facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—

(A) IN GENERAL.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass.

(B) ACCESS.—On notice by a representative of the Secretary, the grant recipient shall afford the representative—

(i) reasonable access to the facility that purchases or uses biomass; and

(ii) an opportunity to examine the inventory and records of the facility.

(b) VALUE-ADDED GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary—

(A) may make grants to persons to offset the cost of projects to add value to biomass; and

(B) in making a grant under subparagraph (A), shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary shall select a grant recipient under paragraph (1)(A) after giving consideration to—

(A) the anticipated public benefits of the project;

(B) opportunities for the creation or expansion of small businesses and microbusinesses resulting from the project; and

(C) the potential for new job creation as a result of the project.

(3) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000.

(c) RELATION TO OTHER ENDANGERED SPECIES AND RIPARIAN PROTECTIONS.—

(1) IN GENERAL.—The Secretary shall comply with applicable endangered species and riparian protections in making grants under this section.

(2) PROJECTS.—Projects funded using grant proceeds shall be required to comply with the protections.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2004 through 2008.

SEC. 204. REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—Not later than October 1, 2008, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the grant programs authorized by section 203.

(b) CONTENTS OF REPORT.—The report shall include—

(1) an identification of the source, size, type, and the end-use of biomass by persons that receive grants under section 203;

(2) the haul costs incurred and the distance between the land from which the biomass was removed and the facilities that used the biomass;

(3) the economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations; and

(4) the environmental effects of the activities described in this section.

SEC. 205. IMPROVED BIOMASS USE RESEARCH PROGRAM.

(a) USES OF GRANTS, CONTRACTS, AND ASSISTANCE.—Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(5) research to integrate silviculture, harvesting, product development, processing information, and economic evaluation to provide the science, technology, and tools to forest managers and community developers for use in evaluating forest treatment and production alternatives, including—

''(A) to develop tools that would enable land managers, locally or in a several-State region, to estimate—

''(i) the cost to deliver varying quantities of wood to a particular location; and

''(ii) the amount that could be paid for stumpage if delivered wood was used for a specific mix of products;

''(B) to conduct research focused on developing appropriate thinning systems and equipment designs that are—

''(i) capable of being used on land without significant adverse effects on the land;

''(ii) capable of handling large and varied landscapes;

''(iii) adaptable to handling a wide variety of tree sizes;

''(iv) inexpensive; and

''(v) adaptable to various terrains; and

''(C) to develop, test, and employ in the training of forestry managers and community developers curricula materials and training programs on matters described in subparagraphs (A) and (B).''.

(b) FUNDING.—Section 310(b) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended by striking ''$49,000,000'' and inserting ''$54,000,000''.

SEC. 206. RURAL REVITALIZATION THROUGH FORESTRY.

Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended by adding at the end the following:

''(d) RURAL REVITALIZATION TECHNOLOGIES.—

''(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with the State and Private Forestry Technology Marketing Unit at the Forest Products Laboratory, and in collaboration with eligible institutions, may carry out a program—

''(A) to accelerate adoption of technologies using biomass and small-diameter materials;

''(B) to create community-based enterprises through marketing activities and demonstration projects; and

''(C) to establish small-scale business enterprises to make use of biomass and small-diameter materials.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2004 through 2008.''.

TITLE III—WATERSHED FORESTRY ASSISTANCE

SEC. 301. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that the proper stewardship of forest land is essential to sustaining and restoring the health of watersheds;

(3) forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes forest restoration worthy of special focus; and

(4) strengthened education, technical assistance, and financial assistance for nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

(b) PURPOSES.—The purposes of this title are—

(1) to improve landowner and public understanding of the connection between forest management and watershed health;

(2) to encourage landowners to maintain tree cover on property and to use tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

(3) to enhance and complement forest management and buffer use for watersheds, with an emphasis on community watersheds;

(4) to establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

(5) to provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, and conserves and improves forested land and potentially forested land, through technical, financial, and educational assistance to qualifying individuals and entities; and

(6) to maximize the proper management and conservation of wetland forests and to assist in the restoration of those forests.

SEC. 302. WATERSHED FORESTRY ASSISTANCE PROGRAM.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5 (16 U.S.C. 2103a) the following:

''SEC. 6. WATERSHED FORESTRY ASSISTANCE PROGRAM.

''(a) DEFINITION OF NONINDUSTRIAL PRIVATE FOREST LAND.—In this section, the term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

''(1) has existing tree cover or that is suitable for growing trees; and

''(2) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decisionmaking authority over the land.

''(b) GENERAL AUTHORITY AND PURPOSE.—The Secretary, acting through the Chief of the Forest Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, and officials of the Cooperative State Research, Education, and Extension Service for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested land and potentially forested land.

''(c) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

''(1) IN GENERAL.—The Secretary, in cooperation with State foresters, officials of the Cooperative State Research, Education, and Extension Service, or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical assistance to protect water quality described in paragraph (2).

''(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

''(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, and local levels;

''(B) to provide State forestry best-management practices and water quality technical assistance directly to owners of nonindustrial private forest land;

''(C) to provide technical guidance to land managers and policymakers for water quality protection through forest management;

''(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

''(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

''(3) IMPLEMENTATION.—In the case of a participating State, the program of technical assistance shall be implemented by State foresters or equivalent State officials.

''(d) WATERSHED FORESTRY COST-SHARE PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a watershed forestry cost-share program—

''(A) which shall be—

''(i) administered by the Forest Service; and

''(ii) implemented by State foresters or equivalent State officials in participating States; and

''(B) under which funds or other support provided to participating States shall be made available for State forestry best-management practices programs and watershed forestry projects.

''(2) WATERSHED FORESTRY PROJECTS.—The State forester, State Research, Education and Extension official, or equivalent State official of a participating State, in coordination with the State Forest Stewardship Coordinating Committee established under section 19(b) (or an equivalent committee) for that State, shall make awards to communities, nonprofit groups, and owners of nonindustrial private forest land under the program for watershed forestry projects described in paragraph (3).

''(3) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

''(A) the use of trees as solutions to water quality problems in urban and rural areas;

''(B) community-based planning, involvement, and action through State, local and nonprofit partnerships;

''(C) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

''(D) watershed-scale forest management activities and conservation planning; and

''(E)(i) the restoration of wetland (as defined by the States) and stream-side forests; and

''(ii) the establishment of riparian vegetative buffers.

''(4) COST-SHARING.—

''(A) FEDERAL SHARE.—

''(i) FUNDS UNDER THIS SUBSECTION.—Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project.

''(ii) OTHER FEDERAL FUNDS.—The percentage of the cost of a project described in clause (i) that is not covered by funds made available under this subsection may be paid using other Federal funding sources, except that the total Federal share of the costs of the project may not exceed 90 percent.

''(B) FORM.—The non-Federal share of the costs of a project may be provided in the form of cash, services, or other in-kind contributions.

''(5) PRIORITIZATION.—The State Forest Stewardship Coordinating Committee for a State, or equivalent State committee, shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

''(6) WATERSHED FORESTER.—Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State watershed or best-management practice forester position to—

''(A) lead statewide programs; and

''(B) coordinate watershed-level projects.

''(e) DISTRIBUTION.—

''(1) IN GENERAL.—Of the funds made available for a fiscal year under subsection (g), the Secretary shall use—

''(A) at least 75 percent of the funds to carry out the cost-share program under subsection (d); and

''(B) the remainder of the funds to deliver technical assistance, education, and planning, at the local level, through the State Forester or equivalent State official.

''(2) SPECIAL CONSIDERATIONS.—Distribution of funds by the Secretary among States under paragraph (1) shall be made only after giving appropriate consideration to—

''(A) the acres of agricultural land, nonindustrial private forest land, and highly erodible land in each State;

''(B) the miles of riparian buffer needed;

''(C) the miles of impaired stream segments and other impaired water bodies where forestry practices can be used to restore or protect water resources;

''(D) the number of owners of nonindustrial private forest land in each State; and

''(E) water quality cost savings that can be achieved through forest watershed management.

''(f) WILLING OWNERS.—

''(1) IN GENERAL.—Participation of an owner of nonindustrial private forest land in the watershed forestry assistance program under this section is voluntary.

''(2) WRITTEN CONSENT.—The watershed forestry assistance program shall not be carried out on nonindustrial private forest land without the written consent of the owner of, or entity having definitive decisionmaking over, the nonindustrial private forest land.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2004 through 2008.''.

SEC. 303. TRIBAL WATERSHED FORESTRY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ''Secretary''), acting through the Chief of the Forest Service, shall provide technical,

financial, and related assistance to Indian tribes for the purpose of expanding tribal stewardship capacities and activities through tribal forestry best-management practices and other means at the tribal level to address watershed issues on land under the jurisdiction of or administered by the Indian tribes.

(b) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

(1) IN GENERAL.—The Secretary, in cooperation with Indian tribes, shall develop a program to provide technical assistance to protect water quality, as described in paragraph (2).

(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, tribal, and local levels;

(B) to provide tribal forestry best-management practices and water quality technical assistance directly to Indian tribes;

(C) to provide technical guidance to tribal land managers and policy makers for water quality protection through forest management;

(D) to complement tribal efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal agencies and tribal entities charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of tribal forestry best-management practices.

(c) WATERSHED FORESTRY PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a watershed forestry program to be administered by Indian tribes.

(2) PROGRAMS AND PROJECTS.—Funds or other support provided under the program shall be made available for tribal forestry best-management practices programs and watershed forestry projects.

(3) ANNUAL AWARDS.—The Secretary shall annually make awards to Indian tribes to carry out this subsection.

(4) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within land under the jurisdiction of or administered by an Indian tribe by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems;

(B) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(C) watershed-scale forest management activities and conservation planning;

(D) the restoration of wetland and streamside forests and the establishment of riparian vegetative buffers; and

(E) tribal-based planning, involvement, and action through State, tribal, local, and nonprofit partnerships.

(5) PRIORITIZATION.—An Indian tribe that participates in the program under this subsection shall prioritize watersheds in land under the jurisdiction of or administered by the Indian tribe to target watershed forestry projects funded under this subsection.

(6) WATERSHED FORESTER.—The Secretary may provide to Indian tribes under this section financial and technical assistance to establish a position of tribal forester to lead tribal programs and coordinate small watershed-level projects.

(d) DISTRIBUTION.—The Secretary shall devote—

(1) at least 75 percent of the funds made available for a fiscal year under subsection (e) to the program under subsection (c); and

(2) the remainder of the funds to deliver technical assistance, education, and planning on the ground to Indian tribes.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2004 through 2008.

TITLE IV—INSECT INFESTATIONS AND RELATED DISEASES

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) high levels of tree mortality resulting from insect infestation (including the interaction between insects and diseases) may result in—

(A) increased fire risk;

(B) loss of old trees and old growth;

(C) loss of threatened and endangered species;

(D) loss of species diversity;

(E) degraded watershed conditions;

(F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and

(G) decreased timber values;

(2)(A) forest-damaging insects destroy hundreds of thousands of acres of trees each year;

(B) in the West, more than 21,000,000 acres are at high risk of forest-damaging insect infestation, and in the South, more than 57,000,000 acres are at risk across all land ownerships; and

(C) severe drought conditions in many areas of the South and West will increase the risk of forest-damaging insect infestations;

(3) the hemlock woolly adelgid is—

(A) destroying streamside forests throughout the mid-Atlantic and Appalachian regions;

(B) threatening water quality and sensitive aquatic species; and

(C) posing a potential threat to valuable commercial timber land in northern New England;

(4)(A) the emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests because an emerald ash borer infestation is almost always fatal to affected trees; and

(B) the emerald ash borer pest threatens to destroy more than 692,000,000 ash trees in forests in Michigan and Ohio alone, and between 5 and 10 percent of urban street trees in the Upper Midwest;

(5)(A) epidemic populations of Southern pine beetles are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and

(B) in 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in Southern pine beetle populations;

(6) those epidemic outbreaks of Southern pine beetles have forced private landowners to harvest dead and dying trees, in rural areas and increasingly urbanized settings;

(7) according to the Forest Service, recent outbreaks of the red oak borer in Arkansas and Missouri have been unprecedented, with more than 1,000,000 acres infested at population levels never seen before;

(8) much of the damage from the red oak borer has taken place in national forests, and the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources;

(9)(A) previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application; and

(B) there have not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments;

(10) only through the full funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests;

(11)(A) often, there are significant interactions between insects and diseases;

(B) many diseases (such as white pine blister rust, beech bark disease, and many other diseases) can weaken trees and forest stands and predispose trees and forest stands to insect attack; and

(C) certain diseases are spread using insects as vectors (including Dutch elm disease and pine pitch canker); and

(12) funding and implementation of an initiative to combat forest pest infestations and associated diseases should not come at the expense of supporting other programs and initiatives of the Secretary.

(b) PURPOSES.—The purposes of this title are—

(1) to require the Secretary to develop an accelerated basic and applied assessment program to combat infestations by forest-damaging insects and associated diseases;

(2) to enlist the assistance of colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions), State agencies, and private landowners to carry out the program; and

(3) to carry out applied silvicultural assessments.

SEC. 402. DEFINITIONS.

In this title:

(1) APPLIED SILVICULTURAL ASSESSMENT.—

(A) IN GENERAL.—The term ''applied silvicultural assessment'' means any vegetative or other treatment carried out for a purpose described in section 403.

(B) INCLUSIONS.—The term ''applied silvicultural assessment'' includes (but is not limited to) timber harvesting, thinning, prescribed burning, pruning, and any combination of those activities.

(2) 1890 INSTITUTION.—

(A) IN GENERAL.—The term ''1890 Institution'' means a college or university that is eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.).

(B) INCLUSION.—The term ''1890 Institution'' includes Tuskegee University.

(3) FOREST-DAMAGING INSECT.—The term ''forest-damaging insect'' means—

(A) a Southern pine beetle;

(B) a mountain pine beetle;

(C) a spruce bark beetle;

(D) a gypsy moth;

(E) a hemlock woolly adelgid;

(F) an emerald ash borer;

(G) a red oak borer;

(H) a white oak borer; and

(I) such other insects as may be identified by the Secretary.

(4) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System land; and

(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

SEC. 403. ACCELERATED INFORMATION GATHERING REGARDING FOREST-DAMAGING INSECTS.

(a) INFORMATION GATHERING.—The Secretary, acting through the Forest Service and United States Geological Survey, as appropriate, shall establish an accelerated program—

(1) to plan, conduct, and promote comprehensive and systematic information gathering on forest-damaging insects and associated diseases, including an evaluation of—

(A) infestation, prevention, and suppression methods;

(B) effects of infestations and associated disease interactions on forest ecosystems;

(C) restoration of forest ecosystem efforts;

(D) utilization options regarding infested trees; and

(E) models to predict the occurrence, distribution, and impact of outbreaks of forest-damaging insects and associated diseases;

(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of forest-damaging insects and associated diseases on Federal land and State and private land; and

(3) to disseminate the results of the information gathering, treatments, and strategies.

(b) COOPERATION AND ASSISTANCE.—The Secretary shall—

(1) establish and carry out the program in cooperation with—

(A) scientists from colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions);

(B) Federal, State, and local agencies; and

(C) private and industrial landowners; and

(2) designate such colleges and universities to assist in carrying out the program.

SEC. 404. APPLIED SILVICULTURAL ASSESSMENTS.

(a) ASSESSMENT EFFORTS.—For information gathering and research purposes, the Secretary may conduct applied silvicultural assessments on Federal land that the Secretary determines is at risk of infestation by, or is infested with, forest-damaging insects.

(b) LIMITATIONS.—

(1) EXCLUSION OF CERTAIN AREAS.—Subsection (a) does not apply to—

(A) a component of the National Wilderness Preservation System;

(B) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

(C) a congressionally-designated wilderness study area; or

(D) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

(2) CERTAIN TREATMENT PROHIBITED.—Nothing in subsection (a) authorizes the application of insecticides in municipal watersheds or associated riparian areas.

(3) PEER REVIEW.—

(A) IN GENERAL.—Before being carried out, each applied silvicultural assessment under this title shall be peer reviewed by scientific experts selected by the Secretary, which shall include non-Federal experts.

(B) EXISTING PEER REVIEW PROCESSES.—The Secretary may use existing peer review processes to the extent the processes comply with subparagraph (A).

(c) PUBLIC NOTICE AND COMMENT.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each applied silvicultural assessment proposed to be carried out under this section.

(2) PUBLIC COMMENT.—The Secretary shall provide an opportunity for public comment before carrying out an applied silviculture assessment under this section.

(d) CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—Applied silvicultural assessment and research treatments carried out under this section on not more than 1,000 acres for an assessment or treatment may be categorically excluded from documentation in an environmental impact statement and environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ADMINISTRATION.—Applied silvicultural assessments and research treatments categorically excluded under paragraph (1)—

(A) shall not be carried out in an area that is adjacent to another area that is categorically excluded under paragraph (1) that is being treated with similar methods; and

(B) shall be subject to the extraordinary circumstances procedures established by the Secretary pursuant to section 1508.4 of title 40, Code of Federal Regulations.

(3) MAXIMUM CATEGORICAL EXCLUSION.—The total number of acres categorically excluded under paragraph (1) shall not exceed 250,000 acres.

(4) NO ADDITIONAL FINDINGS REQUIRED.—In accordance with paragraph (1), the Secretary shall not be required to make any findings as to whether an applied silvicultural assessment project, either individually or cumulatively, has a significant effect on the environment.

SEC. 405. RELATION TO OTHER LAWS.

The authority provided to each Secretary under this title is supplemental to, and not in lieu of, any authority provided to the Secretaries under any other law.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title for each of fiscal years 2004 through 2008.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM

SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RESERVE PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish the healthy forests reserve program for the purpose of restoring and enhancing forest ecosystems—

(1) to promote the recovery of threatened and endangered species;

(2) to improve biodiversity; and

(3) to enhance carbon sequestration.

(b) COORDINATION.—The Secretary of Agriculture shall carry out the healthy forests reserve program in coordination with the Secretary of the Interior and the Secretary of Commerce.

SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the Secretary of the Interior and the Secretary of Commerce, shall describe and define forest ecosystems that are eligible for enrollment in the healthy forests reserve program.

(b) ELIGIBILITY.—To be eligible for enrollment in the healthy forests reserve program, land shall be—

(1) private land the enrollment of which will restore, enhance, or otherwise measurably increase the likelihood of recovery of a species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) private land the enrollment of which will restore, enhance, or otherwise measurably improve the well-being of species that—

(A) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(B) are candidates for such listing, State-listed species, or special concern species.

(c) OTHER CONSIDERATIONS.—In enrolling land that satisfies the criteria under subsection (b), the Secretary of Agriculture shall give additional consideration to land the enrollment of which will—

(1) improve biological diversity; and

(2) increase carbon sequestration.

(d) ENROLLMENT BY WILLING OWNERS.—The Secretary of Agriculture shall enroll land in the healthy forests reserve program only with the consent of the owner of the land.

(e) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the healthy forests reserve program shall not exceed 2,000,000 acres.

(f) METHODS OF ENROLLMENT.—

(1) IN GENERAL.—Land may be enrolled in the healthy forests reserve program in accordance with—

(A) a 10-year cost-share agreement;

(B) a 30-year agreement; or

(C) an agreement of not more than 99 years.

(2) PROPORTION.—The extent to which each enrollment method is used shall be based on the approximate proportion of owner interest expressed in that method in comparison to the other methods.

(g) ENROLLMENT PRIORITY.—

(1) SPECIES.—The Secretary of Agriculture shall give priority to the enrollment of land that provides the greatest conservation benefit to—

(A) primarily, species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(B) secondarily, species that—

(i) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(ii) are candidates for such listing, State-listed species, or special concern species.

(2) COST-EFFECTIVENESS.—The Secretary of Agriculture shall also consider the cost-effectiveness of each agreement, and associated restoration plans, so as to maximize the environmental benefits per dollar expended.

SEC. 503. RESTORATION PLANS.

(a) IN GENERAL.—Land enrolled in the healthy forests reserve program shall be subject to a restoration plan, to be developed jointly by the landowner and the Secretary of Agriculture.

(b) PRACTICES.—The restoration plan shall require such restoration practices as are necessary to restore and enhance habitat for—

(1) species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) animal or plant species before the species reach threatened or endangered status, such as candidate, State-listed species, and special concern species.

SEC. 504. FINANCIAL ASSISTANCE.

(a) AGREEMENTS OF NOT MORE THAN 99 YEARS.—In the case of land enrolled in the healthy forests reserve program using an agreement of not more than 99 years described in section 502(f)(1)(C), the Secretary of Agriculture shall pay the owner of the land an amount equal to not less than 75 percent, nor more than 100 percent, of (as determined by the Secretary)—

(1) the fair market value of the enrolled land during the period the land is subject to the agreement, less the fair market value of the land encumbered by the agreement; and

(2) the actual costs of the approved conservation practices or the average cost of approved practices carried out on the land during the period in which the land is subject to the agreement.

(b) 30-YEAR AGREEMENT.— In the case of land enrolled in the healthy forests reserve program using a 30-year agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 75 percent of the fair market value of the land, less the fair market value of the land encumbered by the agreement; and

(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices.

(c) 10-YEAR AGREEMENT.—In the case of land enrolled in the healthy forests reserve

program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 50 percent of the actual costs of the approved conservation practices; or

(2) 50 percent of the average cost of approved practices.

(d) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

SEC. 505. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture shall provide landowners with technical assistance to assist the owners in complying with the terms of plans (as included in agreements) under the healthy forests reserve program.

(b) TECHNICAL SERVICE PROVIDERS.—The Secretary of Agriculture may request the services of, and enter into cooperative agreements with, individuals or entities certified as technical service providers under section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842), to assist the Secretary in providing technical assistance necessary to develop and implement the healthy forests reserve program.

SEC. 506. PROTECTIONS AND MEASURES

(a) PROTECTIONS.—In the case of a landowner that enrolls land in the program and whose conservation activities result in a net conservation benefit for listed, candidate, or other species, the Secretary of Agriculture shall make available to the landowner safe harbor or similar assurances and protection under—

(1) section 7(b)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)); or

(2) section 10(a)(1) of that Act (16 U.S.C. 1539(a)(1)).

(b) MEASURES.—If protection under subsection (a) requires the taking of measures that are in addition to the measures covered by the applicable restoration plan agreed to under section 503, the cost of the additional measures, as well as the cost of any permit, shall be considered part of the restoration plan for purposes of financial assistance under section 504.

SEC. 507. INVOLVEMENT BY OTHER AGENCIES AND ORGANIZATIONS.

In carrying out this title, the Secretary of Agriculture may consult with—

(1) nonindustrial private forest landowners;

(2) other Federal agencies;

(3) State fish and wildlife agencies;

(4) State forestry agencies;

(5) State environmental quality agencies;

(6) other State conservation agencies; and

(7) nonprofit conservation organizations.

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $25,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each of fiscal years 2005 through 2008.

TITLE VI—PUBLIC LAND CORPS

SEC. 601. PURPOSES.

The purposes of this title are—

(1) to carry out, in a cost-effective and efficient manner, rehabilitation, enhancement, and beautification projects;

(2) to offer young people, ages 16 through 25, particularly those who are at-risk or economically disadvantaged, the opportunity to gain productive employment and exposure to the world of work;

(3) to give those young people the opportunity to serve their communities and their country; and

(4) to expand educational opportunities by rewarding individuals who participate in the Public Land Corps with an increased ability to pursue higher education or job training.

SEC. 602. DEFINITIONS.

In this title:

(1) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' means a Regional Corporation or Village Corporation, as defined in section 101(11) of the National and Community Service Act of 1990 (42 U.S.C. 12511(11)).

(2) CORPS.—The term ''Corps'' means the Public Land Corps established under section 603(a).

(3) HAWAIIAN HOME LANDS.—The term ''Hawaiian home lands'' means that term, within the meaning of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(4) INDIAN LANDS.—The term ''Indian lands'' has the meaning given the term in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(5) SECRETARIES.—The term ''Secretaries'' means—

(A) the Secretary of Agriculture; and

(B) the Secretary of the Interior.

(6) SERVICE AND CONSERVATION CORPS.—The term ''service and conservation corps'' means any organization established by a State or local government, nonprofit organization, or Indian tribe that—

(A) has a demonstrable capability to provide productive work to individuals;

(B) gives participants a combination of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values through service to their communities and the United States.

(7) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

SEC. 603. PUBLIC LAND CORPS.

(a) ESTABLISHMENT.—There is established a Public Land Corps.

(b) PARTICIPANTS.—The Corps shall consist of individuals who are enrolled as members of a service or conservation corps.

(c) CONTRACTS OR AGREEMENTS.—The Secretaries may enter into contracts or cooperative agreements—

(1) directly with any service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects; or

(2) with a department of natural resources, agriculture, or forestry (or an equivalent department) of any State that has entered into a contract or cooperative agreement with a service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects.

(d) PROJECTS.—

(1) IN GENERAL.—The Secretaries may use the members of a service and conservation corps to perform rehabilitation, enhancement, or beautification projects authorized by law.

(2) INCLUDED LAND.—In addition to Federal and State lands, the projects may be carried out on—

(A) Indian lands, with the approval of the applicable Indian tribe;

(B) Hawaiian home lands, with the approval of the relevant State agency in the State of Hawaii; and

(C) Alaska native lands, with the approval of the applicable Alaska Native Corporation.

(e) PREFERENCE.—In carrying out this title, the Secretaries shall give preference to projects that will—

(1) provide long-term benefits by reducing hazardous fuels on Federal land;

(2) instill in members of the service and conservation corps—

(A) a work ethic;

(B) a sense of personal responsibility; and

(C) a sense of public service;

(3) be labor intensive; and

(4) be planned and initiated promptly.

(f) SUPPORTIVE SERVICES.—The Secretaries may provide such services as the Secretaries consider necessary to carry out this title.

(g) TECHNICAL ASSISTANCE.—To carry out this title, the Secretaries shall provide technical assistance, oversight, monitoring, and evaluation to—

(1) State Departments of Natural Resources and Agriculture (or equivalent agencies); and

(2) members of service and conservation corps.

SEC. 604. NONDISPLACEMENT.

The nondisplacement requirements of section 177(b) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)) shall apply to activities carried out by the Corps under this title.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $15,000,000 for each of fiscal years 2004 through 2008.

TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

SEC. 701. PURPOSE

The purpose of this title is to assist in the economic revitalization of rural forest resource-dependent communities through incentives and collaboration to promote investment in private enterprise and community development by—

(1) the Department of Agriculture;

(2) the Department of the Interior;

(3) the Department of Commerce;

(4) the Small Business Administration;

(5) land grant colleges and universities; and

(6) 1890 Institutions.

SEC. 702. DEFINITIONS.

In this title:

(1) 1890 INSTITUTION.—The term ''1890 Institution'' has the meaning given the term in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a unit of State or local government;

(B) an Indian tribe;

(C) a nonprofit organization;

(D) a small forest products business;

(E) a rural forest resource-dependent community;

(F) a land grant college or university; or

(G) an 1890 institution.

(3) ELIGIBLE PROJECT.—The term ''eligible project'' means a project described in section 703 that will promote the economic development in rural forest resource-dependent communities based on—

(A) responsible forest stewardship;

(B) the production of sustainable forest products; or

(C) the development of forest related tourism and recreation activities.

(4) FOREST PRODUCTS.—The term ''forest products'' means—

(A) logs;

(B) lumber;

(C) chips;

(D) small-diameter finished wood products;

(E) energy biomass;

(F) mulch; and

(G) any other material derived from forest vegetation or individual trees or shrubs.

(5) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means an organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986; and

(B) exempt from taxation under 501(a) of that Code.

(6) PROGRAM.—The term ''program'' means the rural community forestry enterprise program established under section 703.

(7) SMALL FOREST PRODUCTS BUSINESS.—The term ''small forest products business'' means a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) that is classified under subsector 113 or code number 115310 of the North American Industrial Classification System.

(8) RURAL FOREST RESOURCE-DEPENDENT COMMUNITY.—

(A) IN GENERAL.—The term ''rural forest resource-dependent community'' means a community located in a rural area of the United States that is traditionally dependent on forestry products as a primary source of community infrastructure.

(B) INCLUSIONS.—The term ''rural forest resource-dependent community'' includes a community described in subparagraph (A) located in—

(i) the northern forest land of Maine;

(ii) New Hampshire;

(iii) New York;

(iv) Vermont;

(v) the Upper Peninsula of Michigan;

(vi) northern California; and

(vii) eastern Oregon.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

SEC. 703. RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Forest Service a program to be known as the ''Rural Community Forestry Enterprise Program''.

(2) CONSULTATION.—In carrying out the program, the Secretary shall consult with—

(A) the Small Business Administration;

(B) the Economic Development Administration;

(C) land grant colleges and universities;

(D) 1890 institutions;

(E) research stations and laboratories of the Forest Service;

(F) other agencies of the Department of Agriculture that administer rural development programs; and

(G) private nonprofit organizations.

(b) PURPOSES.—The purposes of the program are—

(1) to enhance technical and business management skills training;

(2) to organize cooperatives and marketing programs;

(3) to establish and maintain timber worker skill pools;

(4) to establish and maintain forest product distribution networks and collection centers;

(5) to facilitate technology transfer for processing small diameter trees and brush into useful products;

(6) to develop, where support exists, a program to promote science-based technology implementation and technology transfer that expands the capacity for small forest product businesses to work within market areas;

(7) to promote forest-related tourism and recreational activities;

(8) to enhance the rural forest business infrastructure needed to reduce hazardous fuels on public and private land; and

(9) to carry out related programs and activities, as determined by the Secretary.

(c) FOREST ENTERPRISE CENTERS.—

(1) IN GENERAL.—The Secretary shall establish Forest Enterprise Centers to provide services to rural forest-dependent communities.

(2) LOCATION.—A Center shall be located within close proximity of rural forest-dependent communities served by the Center, with at least 1 center located in each of the States of California, Idaho, Oregon, Montana, New Mexico, Vermont, and Washington.

(3) DUTIES.—A Center shall—

(A) carry out eligible projects; and

(B) coordinate assistance provided to small forest products businesses with—

(i) the Small Business Administration, including the timber set-aside program carried out by the Small Business Administration;

(ii) the Rural Utilities Service, the Rural Housing Service, and the Rural Business-Cooperative Service of the Department of Agriculture;

(iii) the Economic Development Administration, including the local technical assistance program of the Economic Development Administration; and

(iv) research stations and laboratories of the Forest Service.

(d) FOREST ENTERPRISE TECHNICAL ASSISTANCE AND GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Forest Enterprise Centers established under subsection (c), shall establish a program to provide technical assistance and grants to eligible entities to carry out eligible projects.

(2) CRITERIA.—The Secretary shall work with each Forest Enterprise Center to develop appropriate program review and prioritization criteria for each Research Station.

(3) MATCHING FUNDS.—Grants under this section shall—

(A) not exceed 50 percent of the cost of an eligible project; and

(B) be made on the condition that non-Federal sources pay for the remainder of the cost of an eligible project (including payment through in-kind contributions of services or materials).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2004 through 2008.

TITLE VIII—FIREFIGHTERS MEDICAL MONITORING ACT

SEC. 801. SHORT TITLE.

This title shall be referred to as the ''Firefighters Medical Monitoring Act of 2003''.

SEC. 802. MONITORING OF FIREFIGHTERS IN DISASTER AREAS.

(a) IN GENERAL.—The National Institute for Occupational Safety and Health shall monitor the long-term medical health of those firefighters who fought fires in any area declared a disaster area by the Federal Government.

(b) HEALTH MONITORING.—The long-term health monitoring referred to in subsection (a) shall include, but not be limited to, pulmonary illness, neurological damage, and cardiovascular damage, and shall utilize the medical expertise in the local areas affected.

(c) AUTHORIZATION.—To carry out this title, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2004 through 2008.

TITLE IX—DISASTER AIR QUALITY MONITORING ACT

SEC. 901. SHORT TITLE.

This title shall be referred to as the ''Disaster Air Quality Monitoring Act of 2003''.

SEC. 902. MONITORING OF AIR QUALITY IN DISASTER AREAS.

(a) IN GENERAL.—No later than six (6) months after the enactment of this legislation, the Environmental Protection Agency shall provide each of its regional offices a mobile air pollution monitoring network to monitor the emissions of hazardous air pollutants in areas declared a disaster as referred to in subsection (b), and publish such information on a daily basis on its web site and in other forums, until such time as the Environmental Protection Agency has determined that the danger has subsided.

(b) DISASTER AREAS.—The areas referred to in subsection (a) are those areas declared a disaster area by the Federal Government.

(c) CONTINUOUS MONITORING.—The monitoring referred to in subsection (a) shall include the continuous and spontaneous monitoring of hazardous air pollutants, as defined in Public Law 95–95, section 112(b).

(d) AUTHORIZATION.—To carry out this title, there are authorized to be appropriated $8,000,000.

TITLE X—HIGHLANDS REGION CONSERVATION

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Highlands Conservation Act''.

SEC. 1002. FINDINGS.

Congress finds the following:

(1) The Highlands region is a physiographic province that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) The Highlands region is an environmentally unique area that—

(A) provides clean drinking water to over 15,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, including habitat for 247 threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains recreational resources for 14 million visitors annually;

(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits; and

(F) provides homeownership opportunities and access to affordable housing that is safe, clean, and healthy;

(3) An estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region.

(4) More than 1,400,000 residents live in the Highlands region.

(5) The Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve water, forest and agricultural resources, wildlife habitat, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner.

(6) Continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources;

(7) The water, forest, wildlife, recreational, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant.

(8) The national significance of the Highlands region has been documented in—

(A) the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Redevelopment Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001–2006;

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region;

(9) The Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, or restore resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail;

(J) the United States Military Academy at West Point, New York;

(K) the Highlands National Millenium Trail;

(L) the Great Swamp National Wildlife Refuge;

(M) the proposed Crossroads of the Revolution National Heritage Area;

(N) the proposed Musconetcong National Scenic and Recreational River in New Jersey; and

(O) the Farmington River Wild and Scenic Area in Connecticut;

(10) It is in the interest of the United States to protect, conserve, and restore the resources of the Highlands region for the residents of, and visitors to, the Highlands region.

(11) The States of Connecticut, New Jersey, New York, and Pennsylvania, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, restoring and promoting the resources of the Highlands region.

(12) Because of the longstanding Federal practice of assisting States in creating, protecting, conserving, and restoring areas of significant natural and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States and units of local government in the Highlands region, protect, restore, and preserve the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands region.

SEC. 1003. PURPOSES.

The purposes of this title are as follows:

(1) To recognize the importance of the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands, and the national significance of the Highlands region to the United States.

(2) To authorize the Secretary of Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation lands in the Highlands region.

(3) To continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, local units of government and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

SEC. 1004. DEFINITIONS.

In this title:

(1) HIGHLANDS REGION.—The term ''Highlands region'' means the physiographic province, defined by the Reading Prong and ecologically similar adjacent upland areas, that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) HIGHLANDS STATE.—The term ''Highlands State'' means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York;

(D) the State of Pennsylvania; and

(E) any agency or department of any Highlands State.

(3) LAND CONSERVATION PARTNERSHIP PROJECT.—The term ''land conservation partnership project'' means a land conservation project located within the Highlands region identified as having high conservation value by the Forest Service in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of permanently protecting, conserving, or preserving the land through a partnership with the Federal Government.

(4) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means any Highlands State, or any agency or department of any Highlands State with authority to own and manage land for conservation purpose, including the Palisades Interstate Park Commission.

(5) STUDY.—The term ''study'' means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.

(6) UPDATE.—The term ''update'' means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.

SEC. 1005. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.

(a) SUBMISSION OF PROPOSED PROJECTS.—Annually, the Governors of the Highlands States, with input from pertinent units of local government and the public, may jointly identify land conservation partnership projects in the Highlands region that shall be proposed for Federal financial assistance and submit a list of those projects to the Secretary of the Interior.

(b) CONSIDERATION OF PROJECTS.—The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall annually submit to Congress a list of those land conservation partnership projects submitted under subsection (a) that are eligible to receive financial assistance under this section.

(c) ELIGIBILITY CONDITIONS.—To be eligible for financial assistance under this section for a land conservation partnership project, a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(1) identifies the non-Federal entity that shall own or hold and manage the land or interest in land;

(2) identifies the source of funds to provide the non-Federal share required under subsection (d);

(3) describes the management objectives for the land that will assure permanent protection and use of the land for the purpose for which the assistance will be provided;

(4) provides that, if the non-Federal entity converts, uses, or disposes of the land conservation partnership project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court and shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(A) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(B) the amount by which the financial assistance increased the value of the land or interest in land; and

(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in the following:

(A) Important Areas portion of the Forest Service study.

(B) Conservation Focal Areas portion of the Forest Service update.

(C) Conservation Priorities portion of the update.

(D) Lands identified as having higher or highest resource value in the Conservation Values Assessment portion of the update.

(d) NON-FEDERAL SHARE REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior from the general funds of the Treasury or the Land and Water Conservation Fund to carry out this section $10,000,000 for each of the fiscal years 2005 through 2014. Amounts appropriated pursuant to this authorization of appropriations shall remain available until expended.

SEC. 1006. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.

(a) IN GENERAL.—In order to meet the land resource goals of, and the scientific and conservation challenges identified in, the study, update, and any future study that the Forest Service may undertake in the Highlands region, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the Natural Resource Conservation Service, shall continue to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

(b) DUTIES.—The Forest Service shall—

(1) in consultation with the Highlands States, undertake other studies and research as appropriate in the Highlands region consistent with the purposes of this title;

(2) communicate the findings of the study and update and maintain a public dialogue regarding implementation of the study and update; and

(3) assist the Highland States, local units of government, individual landowners, and private organizations in identifying and using Forest Service and other technical and financial assistance programs of the Department of Agriculture.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this section $1,000,000 for each of the fiscal years 2005 through 2014.

SEC. 1007. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to permit public access (including Federal, State, or local government access) to such private property; and

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Nothing in this title shall be construed to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS.—Nothing in this title shall be construed to require the owner of any private property located in the Highlands region to participate in the land conservation, financial, or technical assistance or any other programs established under this title.

(e) PURCHASE OF LANDS OR INTERESTS IN LANDS FROM WILLING SELLERS ONLY.—Funds appropriated to carry out this title shall be used to purchase lands or interests in lands only from willing sellers.

TITLE XI—MISCELLANEOUS PROVISIONS

SEC. 1101. FOREST INVENTORY AND MANAGEMENT.

Section 17 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 note; Public Law 95313) is amended to read as follows:

"SEC. 17. FOREST INVENTORY AND MANAGEMENT.

''(a) IN GENERAL.—The Secretary shall carry out a program using geospatial and information management technologies (including remote sensing imaging and decision support systems) to inventory, monitor, characterize, assess, and identify forest stands and potential forest stands on—

''(1) units of the National Forest System; and

''(2) private forest land, with the consent of the owner of the land.

''(b) MEANS.—The Secretary shall carry out the program through the use of—

''(1) remote sensing technology of the National Aeronautics and Space Administration and the United States Geological Survey;

''(2) emerging geospatial capabilities in research activities;

''(3) validating techniques, including coordination and reconciliation with existing data through field verification, using application demonstrations; and

''(4) integration of results into pilot operational systems.

''(c) ISSUES TO BE ADDRESSED.—In carrying out the program, the Secretary shall address issues including—

''(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, acid deposition, and weather-related risks and other episodic events);

''(2) loss or degradation of forests;

''(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

''(4) quantification of carbon uptake rates;

''(5) management practices that focus on preventing further forest degradation; and

''(6) characterization of vegetation types, density, fire regimes, post-fire effects, and condition class.

''(d) EARLY WARNING SYSTEM.—In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

''(1) isolate and treat a threat before the threat gets out of control; and

''(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

''(e) ADMINISTRATION.—To carry out this section, the Secretary shall—

''(1) designate a facility within Forest Service Region 8 that—

''(A) is best-suited to take advantage of existing resources to coordinate and carry out the program through the means described in subsection (b); and

''(B) will address the issues described in subsection (c), with a particular emphasis on hardwood forest stands in the Eastern United States; and

''(2) designate a facility in the Ochoco National Forest headquarters within Forest Service Region 6 that will address the issues described in subsection (c), with a particular emphasis on coniferous forest stands in the Western United States.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

SEC. 1102. PROGRAM FOR EMERGENCY TREATMENT AND REDUCTION OF NONNATIVE INVASIVE PLANTS.

(a) DEFINITIONS.—In this section:

(1) INTERFACE COMMUNITY.—The term ''interface community'' has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(2) INTERMIX COMMUNITY.—The term ''intermix community'' has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(3) PLANT.—The term ''plant'' includes—

(A) a tree;

(B) a shrub; and

(C) a vine.

(4) PROGRAM.—The term ''program'' means the program for emergency treatment and reduction of nonnative invasive plants established under subsection (b)(1).

(5) SECRETARIES.—The term ''Secretaries'' means the Secretary of Agriculture and the Secretary of the Interior, acting jointly.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretaries shall establish a program for emergency treatment and reduction of nonnative invasive plants to provide to State and local governments and agencies, conservation districts, tribal governments, and willing private landowners grants for use in carrying out hazardous fuel reduction projects to address threats of catastrophic fires that have been determined by the Secretaries to pose a serious threat to—

(A) property;

(B) human life; or

(C) the ecological stability of an area.

(2) COORDINATION.—In carrying out the program, the Secretaries shall coordinate with such Federal agencies, State and local governments and agencies, and conservation districts as are affected by projects under the program.

(c) ELIGIBLE LAND.—A project under the program shall—

(1) be carried out only on land that is located—

(A) in an interface community or intermix community; or

(B) in such proximity to an interface community or intermix community as would pose a significant risk in the event of the spread of a fire disturbance event from the land (including a risk that would threaten human life or property in proximity to or within the interface community or intermix community), as determined by the Secretaries;

(2) remove fuel loads determined by the Secretaries, a State or local government, a tribal government, or a private landowner to pose a serious threat to—

(A) property;

(B) human life; or

(C) the ecological stability of an area; and

(3) involve the removal of nonnative invasive plants.

(d) USE OF FUNDS.—Funds made available for a project under the program shall be used only for—

(1) the removal of plants or other potential fuels that are—

(A) adjacent to or within the wildland urban interface; or

(B) adjacent to a municipal watershed, river, or water course;

(2) the removal of erosion structures that impede the removal of nonnative plants; or

(3) the replanting of native vegetation to reduce the reestablishment of nonnative invasive plants in a treatment area.

(e) REVOLVING FUND.—

(1) IN GENERAL.—In the case of a grant provided to a willing owner to carry out a project on non-Federal land under this section, the owner shall deposit into a revolving fund established by the Secretaries any proceeds derived from the sale of timber or biomass removed from the non-Federal land under the project.

(2) USE.—The Secretaries shall use amounts in the revolving fund to make additional grants under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

SEC. 1103. USDA NATIONAL AGROFORESTRY CENTER.

(a) IN GENERAL.—Section 1243 of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101–624) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 1243. USDA NATIONAL AGROFORESTRY CENTER.";

and

(2) in subsection (a)—

(A) by striking ''SEMIARID'' and inserting ''USDA NATIONAL''; and

(B) by striking ''Semiarid'' and inserting ''USDA National''.

(b) PROGRAM.—Section 1243(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101–624) is amended—

(1) by inserting ''local governments, community organizations, the Institute of Tropical Forestry and the Institute of Pacific Islands Forestry of the Forest Service,'' after ''entities,'';

(2) in paragraph (1), by striking ''on semiarid lands'';

(3) in paragraph (3), by striking ''from semiarid land'';

(4) by striking paragraph (4) and inserting the following:

''(4) collect information on the design, installation, and function of forested riparian and upland buffers to—

''(A) protect water quality; and

''(B) manage water flow;'';

(5) in paragraphs (6) and (7), by striking ''on semiarid lands'' each place it appears;

(6) by striking paragraph (8) and inserting the following:

''(8) provide international leadership in the worldwide development and exchange of agroforestry practices;'';

(7) in paragraph (9), by striking ''on semiarid lands'';

(8) in paragraph (10), by striking ''and'' at the end;

(9) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(10) by adding at the end the following:

''(12) quantify the carbon storage potential of agroforestry practices such as—

''(A) windbreaks;

''(B) forested riparian buffers;

''(C) silvopasture timber and grazing systems; and

''(D) alley cropping; and

''(13) modify and adapt riparian forest buffer technology used on agricultural land for use by communities to manage stormwater runoff.''.

SEC. 1104. UPLAND HARDWOODS RESEARCH CENTER.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall establish an Upland Hardwood Research Center.

(b) LOCATION.—The Secretary of Agriculture shall locate the Research Center in an area that, as determined by the Secretary of Agriculture, would best use and study the upland hardwood resources of the Ozark Mountains and the South.

(c) DUTIES.—The Upland Hardwood Research Center shall, in conjunction with the Southern Forest Research Station of the Department of Agriculture—

(1) provide the scientific basis for sustainable management of southern upland hardwood forests, particularly in the Ozark Mountains and associated mountain and upland forests; and

(2) conduct research in all areas to emphasize practical application toward the use and preservation of upland hardwood forests, particularly—

(A) the effects of pests and pathogens on upland hardwoods;

(B) hardwood stand regeneration and reproductive biology;

(C) upland hardwood stand management and forest health;

(D) threatened, endangered, and sensitive aquatic and terrestrial fauna;

(E) ecological processes and hardwood ecosystem restoration; and

(F) education and outreach to nonindustrial private forest landowners and associations.

(d) RESEARCH.—In carrying out the duties under subsection (c), the Upland Hardwood Research Center shall—

(1) cooperate with the Center for Bottomland Hardwood Research of the Southern Forest Research Station of the Department of Agriculture, located in Stoneville, Mississippi; and

(2) provide comprehensive research in the Mid-South region of the United States, the Upland Forests Ecosystems Unit of the Southern Forest Research Station of the Department of Agriculture, located in Monticello, Arkansas.

(e) PARTICIPATION OF PRIVATE LANDOWNERS.—The Secretary of Agriculture shall encourage and facilitate the participation of private landowners in the program under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each fiscal year.

SEC. 1105. EMERGENCY FUEL REDUCTION GRANTS.

(a) IN GENERAL.—The Secretary of Agriculture shall establish an emergency fuel reduction grant program under which the Secretary shall provide grants to State and local agencies to carry out hazardous fuel reduction projects addressing threats of catastrophic fire that pose a serious threat to human life, as determined by the Forest Service.

(b) ELIGIBLE PROJECTS.—To be eligible to be carried out with a grant under the program, a hazardous fuel reduction project shall—

(1) be surrounded by or immediately adjacent to the boundary of a national forest;

(2) be determined to be of paramount urgency, as indicated by declarations to that effect by both local officials and the Governor of the State in which in the project is to be carried out; and

(3) remove fuel loading that poses a serious threat to human life, as determined by the Forest Service.

(c) USES OF GRANTS.—A grant under the program may be used only—

(1) to remove trees, shrubs, or other potential fuel adjacent to a primary evacuation route;

(2) to remove trees, shrubs, or other potential fuel that are adjacent to an emergency response center, emergency communication facility, or site designated as a shelter-in-place facility; or

(3) to conduct an evacuation drill or preparation.

(d) REVOLVING FUND.—

(1) IN GENERAL.—In the case of a grant under the program that is used to carry out a project on private or county land, the grant recipient shall deposit in a revolving fund maintained by the Secretary any proceeds from the sale of timber or biomass as a result of the project.

(2) USE.—The Secretary shall use amounts in the revolving fund to make other grants under this section, without further appropriation.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Agriculture to carry out this section $50,000,000 for each fiscal year.

SEC. 1106. EASTERN NEVADA LANDSCAPE COALITION.

(a) IN GENERAL.—(1) The Secretary of Agriculture and the Secretary of the Interior are authorized to make grants to the Eastern Nevada Landscape Coalition for the study and restoration of rangeland and other lands in Nevada's Great Basin in order to help assure the reduction of hazardous fuels and for related purposes.

(2) Notwithstanding sections 6301 through 6308 of title 31, United States Code, the Director of the Bureau of Land Management shall enter into a cooperative agreement with the Eastern Nevada Landscape Coalition for the Great Basin Restoration Project, including hazardous fuels and mechanical treatments and related work.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1107. SENSE OF CONGRESS REGARDING ENHANCED COMMUNITY FIRE PROTECTION.

It is the sense of Congress to reaffirm the importance of enhanced community fire protection program, as described in section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c) (as added by section 8003(b) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 473)).

SEC. 1108. COLLABORATIVE MONITORING.

(a) IN GENERAL.—The Secretaries shall establish a collaborative monitoring, evaluation, and accountability process in order to assess the positive or negative ecological and social effects of a representative sampling of projects implemented pursuant to title I and section 404 of this Act. The Secretaries shall include diverse stakeholders, including interested citizens and Indian tribes, in the monitoring and evaluation process.

(b) MEANS.—The Secretaries may collect monitoring data using cooperative agreements, grants or contracts with small or micro-businesses, cooperatives, nonprofit organizations, Youth Conservation Corps work crews or related partnerships with State, local, and other non-Federal conservation corps.

(c) FUNDS.—Funds to implement this section shall be derived from hazardous fuels operations funds.

SEC. 1109. BEST-VALUE CONTRACTING.

To conduct a project under this division, the Secretaries may use best value contracting criteria in awarding contracts and agreements. Best-value contracting criteria includes—

(1) the ability of the contractor to meet the ecological goals of the projects;

(2) the use of equipment that will minimize or eliminate impacts on soils; and

(3) benefits to local communities such as ensuring that the byproducts are processed locally.

SEC. 1110. SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE PROGRAM; FOREST LEGACY PROGRAM.

(a) SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE PROGRAM.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end the following:

''SEC. 21. SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) COMMITTEE.—The term 'Committee' means a State Forest Stewardship Coordinating Committee established under section 19(b).

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a unit of local government or a nonprofit organization that—

''(A) the Secretary determines, in accordance with the criteria established under subsection (c)(1)(A)(ii)(II) is eligible to receive a grant under subsection (c)(2); and

''(B) the State forester, in consultation with the Committee, determines—

''(i) has the abilities necessary to acquire and manage interests in real property; and

''(ii) has the resources necessary to monitor and enforce any terms applicable to the eligible project.

''(3) ELIGIBLE PROJECT.—The term 'eligible project' means a fee purchase, easement, or donation of land to conserve private forest land identified for conservation under subsection (c)(1)(A)(ii)(I).

''(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(5) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any organization that is—

''(A) described in section 501(c) of the Internal Revenue Code of 1986; and

''(B) exempt from taxation under 501(a) of the Internal Revenue Code of 1986.

''(6) PRIVATE FOREST LAND.—The term 'private forest land' means land that is—

''(A) capable of producing commercial forest products; and

''(B) owned by—

''(i) a private entity; or

''(ii) an Indian tribe.

''(7) PROGRAM.—The term 'program' means the Suburban and Community Forestry and Open Space Program established by subsection (b).

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Forest Service a program to be known as the 'Suburban and Community Forestry and Open Space Program'.

''(2) PURPOSE.—The purpose of the program is to provide assistance to eligible entities to carry out eligible projects in States in which less than 25 percent of the land is owned by the United States to—

''(A) conserve private forest land and maintain working forests in areas threatened by significant suburban sprawl or by conversion to nonforest uses; and

''(B) provide communities a means by which to address significant suburban sprawl.

''(c) GRANT PROGRAM.—

''(1) IDENTIFICATION OF ELIGIBLE PRIVATE FOREST LAND.—

''(A) CRITERIA.—

''(i) NATIONAL CRITERIA.—The Secretary shall establish national eligibility criteria for the identification of private forest land that may be conserved under this section.

''(ii) STATE CRITERIA.—The State forester, in consultation with the Committee, shall, based on the criteria established under clause (i), and subject to the approval of the Secretary, establish criteria for—

''(I) the identification, subject to subparagraph (B), of private forest land in each State that may be conserved under this section; and

''(II) the identification of eligible entities.

''(B) CONDITIONS FOR ELIGIBLE PRIVATE FOREST LAND.—Private forest land identified for conservation under subparagraph (A)(ii)(I) shall be land that—

''(i) is located in a State in which less than 25 percent of the land is owned by the United States; and

''(ii) as determined by the State forester, in consultation with the Committee and subject to the approval of the Secretary—

''(I) is located in an area that is affected, or threatened to be affected, by significant suburban sprawl, taking into account housing needs in the area; and

''(II) is threatened by present or future conversion to nonforest use.

''(2) GRANTS.—

''(A) ELIGIBLE PROJECTS.—

''(i) IN GENERAL.—In carrying out this section, the Secretary shall award competitive grants to eligible entities to carry out eligible projects.

''(ii) PUBLIC ACCESS.—Eligible entities are encouraged to provide public access to land on which an eligible project is carried out.

''(B) APPLICATION; STEWARDSHIP PLAN.—An eligible entity that seeks to receive a grant under this section shall submit to the State forester—

''(i) at such time and in such form as the Secretary shall prescribe, an application for the grant (including a description of any private forest land to be conserved using funds from the grant and a description of the extent of the threat of conversion to nonforest use); and

''(ii) a stewardship plan that describes the manner in which—

''(I) any private forest land to be conserved using funds from the grant will be managed in accordance with this section;

''(II) the stewardship plan will be implemented; and

''(III) the public benefits to be achieved from implementation of the stewardship plan.

''(C) ASSESSMENT OF NEED.—With respect to an application submitted under subparagraph (B), the State forester shall—

''(i) assess the need for preserving suburban forest land and open space and containing suburban sprawl in the State, taking into account the housing needs of the area in which the eligible project is to be carried out; and

''(ii) submit to the Secretary—

''(I) the application submitted under subparagraph (B); and

''(II) the assessment of need.

''(D) APPROVAL OR DISAPPROVAL.—

''(i) IN GENERAL.—Subject to clause (ii), as soon as practicable after the date on which the Secretary receives an application under subparagraph (C)(ii) or a resubmission under subclause (II)(bb)(BB), the Secretary shall—

''(I) review the application; and

''(II)(aa) award a grant to the applicant; or

''(bb)(AA) disapprove the application; and

''(BB) provide the applicant a statement that describes the reasons why the application was disapproved (including a deadline by which the applicant may resubmit the application).

''(ii) CONSIDERATIONS; PRIORITY.—In awarding grants under this section, the Secretary shall—

''(I) consider the need for the eligible project based on the assessment of need submitted under subparagraph (C) and subject to any criteria under paragraph (1); and

''(II) give priority to applicants that propose to fund eligible projects that promote—

''(aa) the preservation of suburban forest land and open space;

''(bb) the containment of suburban sprawl;

''(cc) the sustainable management of private forest land;

''(dd) community involvement in determining the objectives for eligible projects that are funded under this section; and

''(ee) community and school education programs and curricula relating to sustainable forestry.

''(3) COST SHARING.—

''(A) IN GENERAL.—The amount of a grant awarded under this section to carry out an eligible project shall not exceed 50 percent of the total cost of the eligible project.

''(B) ASSURANCES.—As a condition of receipt of a grant under this section, an eligible entity shall provide to the Secretary such assurances as the Secretary determines are sufficient to demonstrate that the share of the cost of each eligible project that is not funded by the grant awarded under this section has been secured.

''(C) FORM.—The share of the cost of carrying out any eligible project described in subparagraph (A) that is not funded by a grant awarded under this section may be provided in cash or in kind (including a donation of land).

''(d) USE OF GRANT FUNDS FOR PURCHASES OF LAND OR EASEMENTS.—

''(1) PURCHASES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), funds made available, and grants awarded, under this section may be used to purchase private forest land or interests in private forest land (including conservation easements) only from willing sellers at fair market value.

''(B) SALES AT LESS THAN FAIR MARKET VALUE.—A sale of private forest land or an interest in private forest land at less than fair market value shall be permitted only on certification by the landowner that the sale is being entered into willingly and without coercion.

''(2) TITLE.—Title to private forest land or an interest in private forest land purchased under paragraph (1) may be held, as determined appropriate by the Secretary, by—

''(A) a State;

''(B) a unit of local government; or

''(C) a nonprofit organization.

''(3) TERMINATION OF EASEMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), all right, title, and interest of a unit of local government or nonprofit organization in and to a conservation easement shall terminate and vest in the State if the State determines that—

''(i) the unit of local government or nonprofit organization is unable or unwilling to enforce the terms of the conservation easement; or

''(ii) the conservation easement has been modified in a way that is inconsistent with the purposes of the program.

''(B) CONVEYANCE TO ANOTHER UNIT OF LOCAL GOVERNMENT OR NONPROFIT ORGANIZATION.—If the State makes a determination under subparagraph (A), the State may convey or authorize the unit of local government or nonprofit organization to convey the conservation easement to another unit of local government or nonprofit organization.

''(e) ADMINISTRATIVE COSTS.—The State, on approval of the Secretary and subject to any regulations promulgated by the Secretary, may use amounts made available under subsection (g) to pay the administrative costs of the State relating to the program.

''(f) REPORT.—The Secretary shall submit to Congress a report on the eligible projects carried out under this section in accordance with section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $50,000,000 for fiscal year 2004; and

''(2) such sums as are necessary for each fiscal year thereafter.''.

(b) FOREST LEGACY PROGRAM.—Section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) is amended—

(1) in subsection (c), by striking the last sentence;

(2) in subsection (i), by striking ''subsection (b)'' and inserting ''this section'';

(3) in subsection (j)(1), by inserting ''(other than by donation)'' after ''acquired'';

(4) in subsection (k)(2), by striking ''the United States or its'' and inserting ''the United States, a State, or other entity, or their''; and

(5) in subsection (l), by adding at the end the following:

''(3) STATE AUTHORIZATION.—

''(A) DEFINITION OF STATE FORESTER.—The term 'State forester' has the meaning given the term in section 4(k).

''(B) IN GENERAL.—Notwithstanding subsection (c) and paragraph (2)(B), the Secretary shall, on request by a State, authorize the State to allow a qualified organization (as defined in section 170(h)(3) of the Internal Revenue Code of 1986) and that is organized for at least 1 of the purposes described in section 170(h)(4)(A) of that Code, using amounts granted to a State under this paragraph, to acquire 1 or more conservation easements to carry out the Forest Legacy Program in the State.

''(C) ELIGIBILITY.—To be eligible to acquire and manage conservation easements under this paragraph, a qualified organization described in subparagraph (B) shall, as determined by the Secretary, acting through the State forester, demonstrate the abilities necessary to acquire, monitor, and enforce interests in forest land consistent with the Forest Legacy Program and the assessment of need for the State.

''(D) MONITORING AND ENFORCEMENT.—

''(i) IN GENERAL.—A qualified organization that acquires a conservation easement under this paragraph shall be responsible for monitoring and enforcing the terms of the conservation easement and any of the costs of the qualified organization associated with such monitoring and enforcement.

''(ii) CONTINGENT RIGHTS.—If a qualified organization that acquires a conservation easement under this paragraph fails to enforce the terms of the conservation easement, as determined by the State, the State or the Secretary shall have the right to enforce the terms of the conservation easement under Federal or State law.

''(iii) AMENDMENTS.—Any amendments to a conservation easement that materially affect the terms of the conservation easement shall be subject to approval by the Secretary or the State, as appropriate.

''(E) TERMINATION OF EASEMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii), all right, title, and interest of a qualified organization described in subparagraph (B) in and to a conservation easement shall terminate and vest in the State or a qualified designee if the State determines that—

''(I) the qualified organization fails to enforce the terms of the conservation easement;

''(II) the conservation easement has been modified in a way that is inconsistent with the purposes of the Forest Legacy Program or the assessment of need for the State; or

''(III) the conservation easement has been conveyed to another person (other than to a qualified organization).

''(ii) CONVEYANCE TO ANOTHER QUALIFIED ORGANIZATION.—If the State makes a determination under clause (i), the State may convey or authorize the qualified organization to convey the conservation easement to another qualified organization.

''(F) IMPLEMENTATION.—The Secretary, acting through the State forester, shall implement this paragraph in accordance with the assessment of need for the State as approved by the Secretary.''.

SEC. 1111. WILDLAND FIREFIGHTER SAFETY.

(a) DEFINITION OF SECRETARY.—In this section, the term ''Secretary'' means—

(1) the Secretary of Agriculture, with respect to land of the National Forest System described in section 3(1)(A); and

(2) the Secretary of the Interior, with respect to public lands described in section 3(1)(B).

(b) FIREFIGHTER SAFETY AND TRAINING BUDGET.—The Secretary shall—

(1) track funds expended for firefighter safety and training programs and activities; and

(2) include a line item for such expenditures in each budget request submitted after the date of enactment of this Act.

(c) ANNUAL REPORT TO CONGRESS.—The Secretaries shall, on an annual basis, jointly submit to Congress a report on the implementation and efficacy of wildland firefighter safety and training programs and activities.—

(d) SAFETY QUALIFICATION OF PRIVATE CONTRACTORS.—

(1) IN GENERAL.—The Secretaries shall ensure that any Federal contract or agreement entered into with a private entity for wildland firefighting services requires the entity to provide firefighter training that is consistent with qualification standards established by the National Wildfire Coordinating Group.

(2) COMPLIANCE.—The Secretaries shall develop a program to monitor and enforce compliance with the requirements of paragraph (1).

SEC. 1112. GREEN MOUNTAIN NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of the Green Mountain National Forest are modified to include all parcels of land depicted on the forest maps entitled ''Green Mountain Expansion Area Map I'' and ''Green Mountain Expansion Area Map II'', each dated February 20, 2002, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460–9), the boundaries of the Green Mountain National Forest, as adjusted by this division, shall be considered to be the boundaries of the national forest as of January 1, 1965.

SEC. 1113. PUERTO RICO KARST CONSERVATION.

(a) SHORT TITLE.—This section may be cited as the ''Puerto Rico Karst Conservation Act of 2003''.

(b) FINDINGS.—Congress finds that—

(1) in the Karst Region of the Commonwealth of Puerto Rico there are—

(A) some of the largest areas of tropical forests in Puerto Rico, with a higher density of tree species than any other area in the Commonwealth; and

(B) unique geological formations that are critical to the maintenance of aquifers and watersheds that constitute a principal water supply for much of the Commonwealth;

(2) the Karst Region is threatened by development that, if unchecked, could permanently damage the aquifers and cause irreparable damage to natural and environmental assets that are unique to the United States;

(3) the Commonwealth has 1 of the highest population densities in the United States, which makes the protection of the Karst Region imperative for the maintenance of the public health and welfare of the citizens of the Commonwealth;

(4) the Karst Region—

(A) possesses extraordinary ecological diversity, including the habitats of several endangered and threatened species and tropical migrants; and

(B) is an area of critical value to research in tropical forest management; and

(5) coordinated efforts at land protection by the Federal Government and the Commonwealth are necessary to conserve the environmentally critical Karst Region.

(c) PURPOSES.—The purposes of this section are—

(1) to authorize and support conservation efforts to acquire, manage, and protect the tropical forest areas of the Karst Region, with particular emphasis on water quality and the protection of the aquifers that are vital to the health and wellbeing of the citizens of the Commonwealth; and

(2) to promote cooperation among the Commonwealth, Federal agencies, corporations, organizations, and individuals in those conservation efforts.

(d) DEFINITIONS.—In this section:

(1) COMMONWEALTH.—The term ''Commonwealth'' means the Commonwealth of Puerto Rico.

(2) FOREST LEGACY PROGRAM.—The term ''Forest Legacy Program'' means the program established under section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c).

(3) FUND.—The term ''Fund'' means the Puerto Rico Karst Conservation Fund established by subsection (f).

(4) KARST REGION.—The term ''Karst Region'' means the areas in the Commonwealth generally depicted on the map entitled ''Karst Region Conservation Area'' and dated March 2001, which shall be on file and available for public inspection in—

(A) the Office of the Secretary, Puerto Rico Department of Natural and Environmental Resources; and

(B) the Office of the Chief of the Forest Service.

(5) LAND.—The term ''land'' includes land, water, and an interest in land or water.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(e) CONSERVATION OF THE KARST REGION.—

(1) FEDERAL COOPERATION AND ASSISTANCE.—In furtherance of the acquisition, protection, and management of land in and adjacent to the Karst Region and in implementing related natural resource conservation strategies, the Secretary may—

(A) make grants to and enter into contracts and cooperative agreements with the Commonwealth, other Federal agencies, organizations, corporations, and individuals; and

(B) use all authorities available to the Secretary, including—

(i) the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.);

(ii) section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318); and

(iii) section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(2) FUNDING SOURCES.—The activities authorized by this subsection may be carried out using—

(A) amounts in the Fund;

(B) amounts in the fund established by section 4(b) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643(b));

(C) funds appropriated from the Land and Water Conservation Fund;

(D) funds appropriated for the Forest Legacy Program; and

(E) any other funds made available for those activities.

(3) MANAGEMENT.—

(A) IN GENERAL.—Land acquired under this subsection shall be managed, in accordance with the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.), in a manner to protect and conserve the water quality and aquifers and the geological, ecological, fish and wildlife, and other natural values of the Karst Region.

(B) FAILURE TO MANAGE AS REQUIRED.—In any deed, grant, contract, or cooperative agreement implementing this subsection and the Forest Legacy Program in the Commonwealth, the Secretary may require that, if land acquired by the Commonwealth or other cooperating entity under this section is sold or conveyed in whole or part, or is not managed in conformity with subparagraph (A), title to the land shall, at the discretion of the Secretary, vest in the United States.

(4) WILLING SELLERS.—Any land acquired by the Secretary in the Karst Region shall be acquired only from a willing seller.

(5) RELATION TO OTHER AUTHORITIES.—Nothing in this subsection—

(A) diminishes any other authority that the Secretary may have to acquire, protect, and manage land and natural resources in the Commonwealth; or

(B) exempts the Federal Government from Commonwealth water laws.

(f) PUERTO RICO KARST CONSERVATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury an interest-bearing account to be known as the ''Puerto Rico Karst Conservation Fund''.

(2) CREDITS TO FUND.—There shall be credited to the Fund—

(A) amounts appropriated to the Fund;

(B) all amounts donated to the Fund;

(C) all amounts generated from the Caribbean National Forest that would, but for this paragraph, be deposited as miscellaneous receipts in the Treasury of the United States, but not including amounts authorized by law for payments to the Commonwealth or authorized by law for retention by the Secretary for any purpose;

(D) all amounts received by the Administrator of General Services from the disposal of surplus real property in the Commonwealth under subtitle I of title 40, United States Code; and

(E) interest derived from amounts in the Fund.

(3) USE OF FUND.—Amounts in the Fund shall be available to the Secretary until expended, without further appropriation, to carry out subsection (e).

(g) MISCELLANEOUS PROVISIONS.—

(1) DONATIONS.—

(A) IN GENERAL.—The Secretary may accept donations, including land and money, made by public and private agencies, corporations, organizations, and individuals in furtherance of the purposes of this subsection.

(B) CONFLICTS OF INTEREST.—The Secretary may accept donations even if the donor conducts business with or is regulated by the Department of Agriculture or any other Federal agency.

(C) APPLICABLE LAW.—Public Law 95–442 (7 U.S.C. 2269) shall apply to donations accepted by the Secretary under this paragraph.

(2) RELATION TO FOREST LEGACY PROGRAM.—

(A) IN GENERAL.—All land in the Karst Region shall be eligible for inclusion in the Forest Legacy Program.

(B) COST SHARING.—The Secretary may credit donations made under paragraph (1) to satisfy any cost-sharing requirements of the Forest Legacy Program.

(h) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1114. FARM SECURITY AND RURAL INVESTMENT ACT.

Section 10806(b)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d; 116 Stat. 526), is deemed to have first become effective 15 days after the date of the enactment of this Act.

SEC. 1115. ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS UNDER THE ANIMAL WELFARE ACT.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) by redesignating subsections (c) through (h) as subsections (d) through (i), respectively;

(2) by inserting after subsection (b) the following:

''(c) SHARP INSTRUMENTS.—It shall be unlawful for any person to knowingly sell, buy, transport, or deliver in interstate or foreign commerce a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture.'';

(3) in subsection (e) (as redesignated by paragraph (1)), by striking ''(c)'' and inserting ''(d)'';

(4) in subsection (f) (as redesignated by paragraph (1))—

(A) by striking ''(a), (b), or (c)'' and inserting ''(a), (b), (c), or (d)''; and

(B) by striking ''1 year'' and inserting ''2 years'';

(5) by striking subsection (g) (as redesignated by paragraph (1)) and inserting the following:

''(g) INVESTIGATIONS.—

''(1) IN GENERAL.—The Secretary or any person authorized by the Secretary shall make such investigations as the Secretary considers necessary to determine whether any person has violated or is violating any provision of this section.

''(2) ASSISTANCE.—Through cooperative agreements, the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, and other law enforcement agencies of the United States and of State, tribal, and local governmental agencies in the conduct of an investigation under paragraph (1).

''(3) WARRANTS.—

''(A) ISSUANCE.—A judge of the United States, United States magistrate judge, or judge of a State or tribal court of competent jurisdiction in the district in which is located an animal, paraphernalia, instrument, or other property or thing that there is probable cause to believe was involved, is about to be involved, or is intended to be involved in a violation of this section shall issue a warrant to search for and seize the animal or other property or thing.

''(B) APPLICATION; EXECUTION.—A United States marshal or any person authorized under this section to conduct an investigation may apply for and execute a warrant issued under subparagraph (A), and any animal, paraphernalia, instrument, or other property or thing seized under such a warrant shall be held by the authorized person pending disposition of the animal, paraphernalia, instrument, or other property or thing by a court in accordance with this subsection.

''(4) STORAGE OF ANIMALS.—

''(A) IN GENERAL.—An animal seized by a United States marshal or other authorized person under paragraph (3) shall be taken promptly to an animal housing facility in which the animal shall be stored humanely.

''(B) NO FACILITY AVAILABLE.—If there is not available a suitable animal storage facility sufficient in size to hold all of the animals involved in a violation, a United States marshal or other authorized person shall—

''(i) seize a representative sample of the animals for evidentiary purposes to be transported to an animal storage facility in which the animals shall be stored humanely; and

''(ii)(I) keep the remaining animals at the location where the animals were seized;

''(II) provide for the humane care of the animals; and

''(III) cause the animals to be banded, tagged, or marked by microchip and photographed or videotaped for evidentiary purposes.

''(5) CARE.—While a seized animal is held in custody, a United States marshal or other authorized person shall ensure that the animal is provided necessary care (including housing, feeding, and veterinary treatment).

''(6) FORFEITURE.—

''(A) IN GENERAL.—Any animal, paraphernalia, instrument, vehicle, money, or other property or thing involved in a violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal, paraphernalia, instrument, vehicle, money, or other property or thing is found.

''(B) DISPOSITION.—On entry of a judgment of forfeiture, a forfeited animal shall be disposed of by humane means, as the court may direct.

''(C) COSTS.—Costs incurred by the United States for care of an animal seized and forfeited under this section shall be recoverable from the owner of the animal—

''(i) in the forfeiture proceeding, if the owner appears in the forfeiture proceeding; or

''(ii) in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

''(D) CLAIM TO PROPERTY.—

''(i) IN GENERAL.—The owner, custodian, or other person claiming an interest in a seized animal may prevent disposition of the animal by posting, or may be ordered by any United States district court or other court of the United States, or by any tribal court, for any jurisdiction in which the animal is found to post, not later than 10 days after the animal is seized, a bond with the court in an amount sufficient to provide for the care of the animal (including housing, feeding, and veterinary treatment) for not less than 30 days.

''(ii) RENEWAL.—The owner, custodian, or other person claiming an interest in a seized animal may renew a bond, or be ordered to renew a bond, by posting a new bond, in an amount sufficient to provide for the care of the animal for at least an additional 30 days, not later than 10 days after the expiration of the period for which a previous bond was posted.

''(iii) DISPOSITION.—If a bond expires and is not renewed, the animal may be disposed of as provided in subparagraph (A).

''(7) EUTHANIZATION.—Notwithstanding paragraphs (1) through (6), an animal may be humanely euthanized if a veterinarian determines that the animal is suffering extreme pain.''; and

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SA 2069. Mr. AKAKA submitted an amendment intended to be proposed by him to the 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; which was ordered to lie on the table; as follows:

On page 96, after line 25, insert the following:

SEC. 519. THE NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGN TO ENHANCE THE STATE OF FINANCIAL LITERACY.

(a) IN GENERAL.—The Commission, as part of any national strategy, shall develop, implement, and conduct a pilot national public service multimedia campaign to enhance the state of financial literacy and education in the United States.

(b) PROGRAM REQUIREMENTS.—

(1) PUBLIC SERVICE CAMPAIGN.—The Commission shall select and work with an organization that is especially well-qualified in the distribution of public service campaigns and has secured private sector funds to produce the pilot national public service multimedia campaign.

(2) DEVELOPMENT OF MULTIMEDIA CAMPAIGN.—The Commission shall develop, in consultation with nonprofit, public, or private organizations, especially those that are well qualified by virtue of their experience in the field of financial literacy and education, to develop the financial literacy national public service multimedia campaign.

(3) FOCUS OF CAMPAIGN.—The pilot national public service multimedia campaign shall be consistent with the national strategy developed by the Commission.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission not to exceed $3,000,000 for fiscal years 2004, 2005, and 2006 for the development, production, and distribution of a pilot national public service multimedia campaign.

(d) PERFORMANCE MEASURES.—The Commission shall develop measures to evaluate the effectiveness of the pilot national public service multimedia campaign, as measured by improved financial decision making among individuals.

(e) REPORT.—For each fiscal year for which there are appropriations pursuant to the authorization in subsection (c), the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives describing the status and implementation of the provisions of

this section and the state of financial literacy in the United States.

SA 2070. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REIMBURSEMENT OF LOST STATE REVENUE.

(A) REPORT.—

(1) OMB.—Not later than November 1 of each year, the Director of Office of Management and Budget shall report to the Secretary of the Treasury the State tax revenue amount for each State and local government that was not received by that State or local government during the most recent fiscal year ending September 30 as a result of the Internet Tax Freedom Act.

(2) CBO.—Not later than November 5 of each year, the Director of the Congressional Budget Office shall report to Congress the information required by paragraph (1) and include an explanation of any differences with the report submitted under paragraph (1).

(b) PAYMENT.—Not later than November 20 of each year and subject to appropriations, the Secretary of the Treasury shall make a payment out of the Treasury to each State in an amount equal to the amount determined for that State and local governments in that State under subsection (a)(1). Each State shall distribute the amounts attributable to local governments in that State to the local governments.

(c) APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 2071. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. USE OF ELIGIBLE COMMODITIES.

(a) AVAILABILITY.—Section 416(b)(1) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(1)) is amended in the first sentence by striking ''1954 and under the Food for Progress Act of 1985,'' and inserting ''1954 (7 U.S.C. 1721 et seq.), the Food for Progress Act of 1985 (7 U.S.C. 1736*o*), and section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736*o*–1),''.

(b) MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.—Section 3107(*l*) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736*o*–1(*l*)) is amended by adding at the end the following:

''(4) USE OF ELIGIBLE COMMODITIES.—In addition to other funds that are available under other provisions of law, the President may use commodities and funds made available under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) to carry out this section (including payment for transportation of eligible commodities).''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, November 12 at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to conduct oversight of the implementation of the Energy Employees Occupational Illness Compensation Program.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, November 4, 2003, at 9:30 a.m. on the nominations of Kirk Van Tine and Jeffrey Rosen, DOT; Michael Gallagher, DOC; Cheryl Halpern and Elizabeth Courtney, CPB.

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

COMMITTEE ON FINANCE

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, November 4, 2003, at 10 a.m., to hear testimony on nominations of Michael O'Grady, to be Assistant Secretary of Health and Human Services, Department of Health and Human Services; Jennifer Young, to be Assistant Secretary of Health and Human Services, Department of Health and Human Services; and Bradley G. Belt, to be Member of the Social Security Advisory Board, Social Security Administration.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session on Tuesday, November 4, 2003 at 9:30 a.m. to hold a hearing on nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session on Tuesday, November 4, 2003 at 2:30 p.m. to hold a subcommittee hearing on North Korea.

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

COMMITTEE ON THE JUDICIARY

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittees on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on ''Database Security: Finding Out When Your Information Has Been Compromised,'' on Tuesday, November 4, 2003, at 10:00 a.m. in Room 226 of the Dirksen Senate Office Building.

Witness list: Mr. Mark MacCarthy, Senior Vice President of Public Policy, Visa U.S.A., Inc., Washington, DC; Mr. David McIntyre, President and CEO, TriWest Healthcare Alliance, Phoenix, AZ; and Mr. Evan Hendricks, Editor, Privacy Times, Cabin John, MD.

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

subcommittee on substance abuse and mental health services

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Substance Abuse and Mental Health Services be authorized to meet for a hearing on ''Recommendations to Improve Mental Health Care in America: Report from the President's New Freedom Commission on Mental Health'' during the session of the Senate on Tuesday, November 4, 2003, at 10 a.m.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 4, 2003, at 2:30 p.m. to conduct a hearing on ''Financial Reconstruction in Iraq.''

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

PRIVILEGE OF THE FLOOR

Mr. JOHNSON. Mr. President, I ask unanimous consent that Naomi Camper, Adam Healy, and Elizabeth Canter of my staff be granted the privilege of the floor during debate on S. 1753, the National Consumer Credit Reporting System Improvement Act.

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

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. SANTORUM. Mr. President, I have a unanimous consent request that we proceed to the Pryor nomination. But I would just ask the Senator from Nevada if there is a possibility that we could get a unanimous consent agreement, however much time the minority would need, to debate this nominee so we can give the attorney general of

Alabama, who has been nominated to the Eleventh Circuit, the opportunity to have an up-or-down vote on the floor of the Senate, which has been the custom here for over 22 years.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I would say to my friend, and the entire Senate, we have already spoken on this. There has been a vote to invoke cloture. That failed. I am confident if this comes up again, the vote will be the same. So I think that actually we are just wasting the time of the Senate, with all the many important things we have to do, and it would just be a repeat of the prior effort to invoke cloture, which failed.

So I object to my friend's request.

The PRESIDING OFFICER. The objection is heard.

EXECUTIVE SESSION

NOMINATION OF WILLIAM H. PRYOR, JR., OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

Mr. SANTORUM. Mr. President, I now ask unanimous consent that the Senate proceed to executive session for the consideration of Calendar No. 310, the nomination of William Pryor, to be U.S. circuit judge for the Eleventh Circuit.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SANTORUM. The clerk will report.

The legislative clerk read the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

CLOTURE MOTION

Mr. SANTORUM. Mr. President, on behalf of the majority leader, I now send a cloture motion to the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 310, the nomination of William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Bill Frist, Rick Santorum, Ben Nighthorse Campbell, Lindsey Graham, Norm Coleman, John Sununu, Jon Kyl, Mike DeWine, Wayne Allard, Elizabeth Dole, Pete Domenici, Mitch McConnell, Robert F. Bennett, Jeff Sessions, Michael B. Enzi, John Ensign, John Cornyn.

Mr. SANTORUM. Mr. President, I further ask unanimous consent that the live quorum provided for under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate immediately proceed to consider the following nomination on today's Executive Calendar: Calendar No. 420. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Gwendolyn Brown, of Virginia, to be Chief Financial Officer, National Aeronautics and Space Administration.

REFERRAL OF NOMINATION—EXECUTIVE CALENDAR NO. 299

Mr. HATCH. Mr. President, I appreciate Senator COLLINS, chair of the Governmental Affairs Committee, entering into a colloquy on a matter that concerns the Judiciary Committee. In particular, our colloquy involves the nomination of Michael Garcia to be Assistant Secretary of Homeland Security. Following our statements, I will seek an unanimous consent agreement to refer Mr. Garcia's nomination to the Judiciary Committee.

All committees derive their ''respective jurisdictions'' from Senate Rule XXV, among other sources. As such, the Governmental Affairs Committee, in its responsibility for the ''organization and reorganization of the executive branch of the Government,'' played a crucial role in establishing the new Department of Homeland Security. I would like to compliment Senator COLLINS on her leadership and the significant improvements that have resulted in our Nation's security since September 11.

Also, under Senate Rule XXV, the Committee on the Judiciary has jurisdiction over ''immigration and naturalization.'' It is important for the immigration and naturalization functions which have been transferred from the Department of Justice and other law enforcement agencies to the Department of Homeland Security to remain under the jurisdiction of the Judiciary Committee.

With the formation of three new bureaus for immigration policy in the Department of Homeland Security, countless situations—from day-to-day immigration services and enforcement to long-term border security planning—will arise in which legislation affecting these bureaus and oversight of these bureaus is an essential role of the Judiciary Committee. I appreciate my colleague taking the time to clarify the confirmation process for Mr. Garcia and the commitment to Senate Rules XXI and XXVI, Section 8 as it affects the Judiciary Committee's jurisdiction.

Ms. COLLINS. I appreciate the Senator's comments, and I look forward to working with him. I would also like to assure him that I do not believe the Governmental Affairs Committee's jurisdiction affects in any way the Judiciary Committee's jurisdiction over immigration and naturalization matters, as set forth in Senate Rule XXV. The Governmental Affairs Committee was responsible for the Homeland Security Act of 2002 which created the new Department of Homeland Security. The committee has conducted wide-ranging and vigorous oversight of the Department and, this year alone, has reported out six bills that address homeland security concerns. In total, the Governmental Affairs Committee has held over 30 hearings on homeland security matters, thus reflecting the paramount role it plays with respect to these matters.

The committee also has handled the nominations of almost all of the Department's nominees. On June 5 of this year, our committee held a hearing on Mr. Garcia's nomination. We reported his nomination to the full Senate on June 17. We then agreed to a referral of Mr. Garcia's nomination to the Judiciary Committee. I understand that my colleague, the distinguished chairman of the Judiciary Committee, now seeks a second referral of the nomination in order to complete its work thereon. I have no objection to my colleagues' request.

Mr. HATCH. I thank the chair of the Governmental Affairs Committee for her comments and efforts on this matter.

Mr. SANTORUM. Mr. President, I ask unanimous consent that Executive Calendar No. 299, the nomination of Michael Garcia, to be an Assistant Secretary of Homeland Security, be referred to the Committee on the Judiciary for a period not to exceed 30 days of Senate session, and that the Senate return to legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

FEDERAL COURT PROCEEDINGS IN PLANO, TX

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 355, S. 1720.

The PRESIDING OFFICER. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (S. 1720) to provide for the Federal court proceedings in Plano, Texas.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. FEDERAL COURT PROCEEDINGS IN PLANO, TEXAS.

[Section 124(c)(3) of title 28, United States Code, is amended by inserting ''and Plano'' after ''held at Sherman''.]

SECTION 1. CHANGE IN COMPOSITION OF DIVISIONS OF EASTERN DISTRICT OF TEXAS.

(a) IN GENERAL.—Section 124(c) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''Denton, and Grayson'' and inserting ''Delta, Denton, Fannin, Grayson, Hopkins, and Lamar''; and

(B) by inserting ''and Plano'' after ''held at Sherman'';

(2) by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively; and

(3) in paragraph (5), as so redesignated, by inserting ''Red River,'' after ''Franklin,''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Eastern District of Texas on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Eastern Judicial District of Texas on the effective date of this section.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read for the third time and passed, the motion to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1720), as amended, was read the third time and passed.

FALLEN PATRIOTS TAX RELIEF ACT

AMENDMENT NO. 2051, AS MODIFIED

Mr. SANTORUM. Mr. President, I ask unanimous consent that notwithstanding the passage of H.R. 3365, amendment No. 2051 be modified with the technical correction at the desk.

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

The modification is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Military Family Tax Relief Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amend-

ORDERS FOR WEDNESDAY, NOVEMBER 5, 2003

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, November 5. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for 60 minutes, with the first 30 minutes under the control of Senator ROBERTS or his designee and the second 30 minutes under the control of the minority leader or his designee; provided that following morning business, the Senate proceed to the consideration of H.R. 2673, the Agriculture appropriations bill, as provided under the previous order.

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

PROGRAM

Mr. SANTORUM. For the information of all Senators, tomorrow, following morning business, the Senate will begin consideration of H.R. 2673, the Agriculture appropriations bill. The bill managers will be here in the morning to begin working through the amendments to the bill. It is the majority leader's intention to complete action on the bill during tomorrow's session. Senators who have amendments are encouraged to contact the bill managers as soon as possible.

In addition to the Agriculture appropriations bill, the Senate will also complete action on both the fair credit reporting bill and the Syria Accountability Act during tomorrow's session. Therefore, Senators should expect a very busy day tomorrow, with rollcall votes occurring throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:58 p.m., adjourned until Wednesday, November 5, 2003, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate November 4, 2003:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

GWENDOLYN BROWN, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.