The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONSUMER PRODUCT SAFETY

Mr. PRYOR. Mr. President, again today, we hope it is going to be a short day for the Senate. We hope we will be able to pass the Consumer Product Safety Commission Reform Act on which we have all worked so hard. I thank my colleagues for the fact that every single amendment that has been offered has been germane. That is great. The fact that everybody stayed focused on the subject matter has helped.

I know Senator STEVENS, who is on the floor now, will concur that it has been exemplary how Senators have conducted themselves on this bill. We thank everyone, all the Senators and the staff, for keeping the amendments germane. It is very important to getting this bill done this week.

The other good news is, our staffs burned the midnight oil last night, Democrats and Republicans. We have been putting together a managers' package, to give a quick status report on that. We think there are about 12 or so amendments in that managers' package right now that have been agreed to. It looks as if maybe we have around eight amendments that are pending. We are hoping we can work out some issues on some of those amendments. We understand there may be a small number of amendments still coming, but we have run our traps here, so to speak.

Again, the good news is we think we have a manageable number of amendments. We know we are going to have a vote in about 15 minutes. It will be on an amendment that is pending. Again, that is great. We will try to dispense with that amendment, however it comes out. Then we will move on to have further amendments throughout the day.

We are very encouraged. I thank Senator STEVENS for his leadership and his staff. They have been great. We appreciate their efforts to try to shepherd this bill through.

I do not want to make a prediction because I don't know and I don't pretend to know how this is going to turn out, but it appears to me that it is possible we could easily finish this bill today. It is possible—I don't want to jinx myself—but maybe even this afternoon. Instead of going into the late evening hours tonight, it is conceivable we might be able to finish it this afternoon if we work hard and stay on task.

I wanted to give the Senate an update. We look forward to the collegial spirit everyone has shown so far. We hope it continues today. I thank everybody for their cooperation and assistance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding we are scheduled for a vote at 11 o'clock; is that correct?

The PRESIDING OFFICER. There will be 15 minutes of debate once the Senate lays down the bill.

Mr. INHOFE. I ask unanimous consent that I be recognized for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do believe we have an agreement, Mr. President, to vote at a time certain. Does the Senator wish to postpone that vote?

Mr. INHOFE. I inquire of the Chair, is there a time certain for a vote?

CPSC REFORM ACT—RESUMED

Mr. STEVENS. Mr. President, I ask that the bill be laid before the Senate.

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2663) to reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs, and for other purposes.

Pending:

Pryor amendment No. 4090, of a technical nature.

Feinstein amendment No. 4104, to prohibit the manufacture, sale, or distribution in commerce of certain children's products and child care articles that contain specified phthalates.

Cornyn amendment No. 4108, to provide appropriate procedures for individual actions by whistleblowers, to provide for the appropriate assessment of costs and expenses in whistleblower cases.

Vitter amendment No. 4097, to allow the prevailing party in certain civil actions related to consumer product safety rules to recover attorney fees.

Casey amendment No. 4109, to require the Consumer Product Safety Commission to study the use of formaldehyde in the manufacturing of textiles and apparel articles and to prescribe consumer product safety standards with respect to such articles.

Dorgan amendment No. 4122, to strike the provision allowing the Commission to certify a proprietary laboratory for third party testing.

Dorgan amendment No. 4098, to ban the importation of toys made by companies that have a persistent pattern of violating consumer product safety standards.

Cardin amendment No. 4103, to require the Consumer Product Safety Commission to develop training standards for product safety inspectors.

DeMint amendment No. 4124, to strike section 31, relating to garage door opener standards.

AMENDMENT NO. 4097

The PRESIDING OFFICER. There is now 15 minutes equally divided on the Vitter amendment.

Mr. STEVENS. Mr. President, under the circumstances now, I control 7½ minutes?

The PRESIDING OFFICER. The time is divided between Senators VITTER and PRYOR.

Mr. STEVENS. I will be pleased to yield that time to the Senator from Oklahoma. I only control half of the time.

Mr. INHOFE. I will postpone my remarks until after the vote.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise again today in strong support of my amendment No. 4097. My amendment is very simple and very straightforward and, in fact, it conforms to present law, as well as to provisions in the House bill, with regard to the awarding of reasonable costs and attorney's fees.

My amendment simply says that a judge can award reasonable costs and attorney's fees from the loser to the winner no matter which side wins and loses. So if an attorney general brings an action and prevails on that consumer product safety action, then it is in the judge's discretion to award costs and attorney's fees from the losing private party to the attorney general. But fairly, if the opposite happens, if the private party is vindicated, if the private party goes through this litigation, which is always significant, lengthy, and costly, and wins and is vindicated, then it is also within the discretion of the judge—it is not mandatory—it is within the discretion of the judge that the private party be awarded reasonable costs and attorney's fees from the losing side; in that case, the attorney general.

That, again, is essentially present law. It can go in either direction. It is up to the court. The words are a little different, but that is essentially the policy embodied by the House bill. I think that is even and that is fair. That does not create an undue push in either direction.

Unfortunately, the underlying bill, the bill before the Senate is very different. It says that only the attorney general in prevailing can get reasonable costs and attorney's fees. The private party, even if it goes through very lengthy, very protracted, and very expensive litigation and is completely vindicated, can never get reasonable costs and attorney's fees, even if the judge thinks that is appropriate.

I think that is wrong. I think it is imbalanced and unfair. It is very important that we act to promote consumer safety. It is very important that we pass some of the measures in this bill and many of the measures in the House bill which I supported as an alternative. In doing that, we need to not make certain problems worse, and one of the problems that has existed is a clog of activity before the Consumer Product Safety Commission and also in the courts.

I feel this underlying provision in the Senate bill, which is all in one direction, could make that clog worse, could

encourage lawsuits which are not thought through, and could encourage frivolous lawsuits. That adds to the workload of the courts and potentially the Consumer Product Safety Commission. We want to encourage lawsuits which are needed—not frivolous ones, ones which are fully thought through. The Vitter amendment will establish the even playing field that will encourage that rather than encourage lawsuits which have very dubious merits and could be frivolous.

It is very reasonable, common sense to say that we are going to leave this all up to the discretion of the court, nothing is mandatory, but the court can award reasonable costs and attorney's fees to either side that prevails and not only in one direction, so that a private party who is completely vindicated after a long, expensive, and protracted litigation, can never, even if the judge thinks it is appropriate, be awarded reasonable costs and attorney's fees.

I urge all of my colleagues to accept this very reasonable approach, the policy of which is embodied in both present law and the House bill, and reject creating the imbalance which I think would only clog our system with lawsuits of very questionable merit.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, we think—we are not sure—that the chairman of the Senate Judiciary Committee may be on his way. I know he has a hearing and some other pending business. I know he feels strongly about this amendment.

I rise, in his absence, in opposition to the Vitter amendment. I understand the rationale and the reasons Senator VITTER is offering for this amendment. In fact, when I saw this amendment, I hearkened back to my days in law school. This is a classic moot court competition exercise on who should pay the attorney's fees. The classic English system is that the loser pays, but the American system has been different. It has been different since the founding of our Republic. It has been a bedrock of the American judicial system for well over 200 years that each side pays their own attorney's fees.

There are a lot of reasons for that system. I don't have to go into the history of it. Again, this is a first-year law school topic. I do think it is important in this specific instance that the Senate not break with American jurisprudence, not break with American tradition, and not change this law. It is very important for several reasons. One is, in this case, if the loser has to pay the attorney's fees, we know who the loser is, don't we? It is the State taxpayers. It is not the Federal taxpayers. It is the State taxpayers, our people. Our people will have to pay these attorney's fees.

When you have a matter as important as the public safety and welfare of the people of your State, the attorney general should be allowed to pursue getting these dangerous products off the shelves, keeping their States safe for their people without having to be concerned about this change in the American legal system that Senator VITTER is recommending.

The other point we all need to remember is that there is something in the world of civil litigation called rule 11. Rule 11 is not only under the Federal Rules of Civil Procedure, but it is in almost every single State's rules of civil procedure I am aware of—maybe every State. I hate to say that without knowing exactly. I am sure it is in the vast majority of States. Rule 11 allows judges to penalize a lawyer for bringing a frivolous lawsuit. That is a very important balanced standard and balanced process, that the legal system has to make sure that no one brings a frivolous lawsuit, but most of all the attorney general.

We also have to remember, as we said yesterday, these attorneys general are not like some lawyer off the street. These are, by and large, elected officials. Mr. President, 42 or 44 State attorneys general are elected by the very same people who elect us. There are a handful who are appointed by a Governor, I think one or two by a legislature, and one by a State supreme court. Regardless, the vast majority are elected by the very same people who elect us. So let's allow the State attorneys general to have the discretion in their States to try to keep their States safe and free of dangerous products.

In closing, there is a compelling interest that these State attorneys general have the ability to get these dangerous products off the shelves. We have seen this, we have talked with a lot of people about this, and we all know that the Consumer Product Safety Commission is overworked. They work hard to do these recalls. Sometimes they take a long time to do them, but, nonetheless, they work very hard to do these recalls. It is beneficial for the whole system to allow the State attorneys general to get these dangerous products out of the marketplace in their States. With all due respect to the CPSC, they do not have the resources to do this, they do not have the people to do this, and they are focused on other issues. They are looking at present-day concerns, not what they dealt with yesterday.

It is very important that we have a strong attorney general enforcement mechanism. I would hate to see it weakened by changing this longstanding American rule of law. I ask all my colleagues to oppose the Vitter amendment.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, Senator VITTER has submitted an amendment to the Consumer Product Safety Commission, CPSC, Reform Act that would discourage State attorneys general from bringing enforcement actions against those who violate consumer product safety regulations. This amendment goes even further than the Cornyn amendment that we voted on last night to gut the enforcement provisions in the bill. The Pryor-Stevens legislation wisely gives State attorneys general the power to protect their citizens from harmful products by pursuing such litigation. We should not gut that important enforcement power by adding a threat that could shift enforcement costs to taxpayers.

Senator VITTER's amendment would allow the prevailing party in a civil action to recover costs and attorney's fees. This means that the taxpayers would bear the costs and attorney's fees of corporations sued by a State attorney general if the suit is unsuccessful. Absent evidence that State attorneys general are pursuing frivolous litigation against corporations, this amendment is not only unnecessary, but it presents a departure from our established legal system. The measure would have a chilling effect on State attorneys general who would like to pursue possible violations of consumer product safety regulations but may fear incurring the legal costs of doing so.

The purpose of the CPSC Reform Act is to ensure that American consumers have access to the safest products. By allowing State attorneys general to bring enforcement actions against corporations that violate consumer safety laws, States are able to pursue those who threaten the safety of consumers, even when Federal regulators fail to do so. However, Senator VITTER's amendment would tie the hands of State attorneys general by making them choose between enforcing the law and potentially burdening the taxpayers with corporations' legal fees or doing nothing when faced with products that have the potential to harm consumers.

I will oppose this amendment because it discourages enforcement of consumer product safety measures.

Mr. FEINGOLD. Mr. President, the amendment offered by the Senator from Louisiana would permit parties sued by State attorneys general under authority of this bill to recover attorneys' fees and costs if they are successful. This amendment would undermine the purpose of giving those State officers that authority. We want their help in protecting the citizens of their States. To create the specter of a large cost to the taxpayer if a case is unsuccessful will only deter aggressive enforcement action.

There are, of course, situations where litigants against the government are given the chance to collect attorneys' fees if they prevail in a lawsuit. As both a State legislator in Wisconsin and a U.S. Senator I have supported legislation like the Equal Access to Justice Act, ''EAJA'', which gives this right to small businesses and individuals of modest means. I have even introduced a bill in several previous Congresses to amend EAJA to make it easier to collect attorneys' fees.

That EAJA statute, however, applies to a limited class of individuals and small businesses. Whether or not we should extend EAJA to apply in those cases where State attorneys general are acting on behalf of the Federal Government, we certainly should not impose a broader rule on the Attorneys General than we currently apply to Federal agencies. For these reasons, I oppose the Vitter amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I ask unanimous consent, since I have yielded back my time, to have 30 additional seconds to clarify my point, and then I will ask for the yeas and nays.

The PRESIDING OFFICER. The Senator is recognized.

Mr. VITTER. Mr. President, I have one very quick point of clarification. My amendment does not mandate that the loser pays in every case. That would be a significant departure from tradition in American law. My amendment does not do that. My amendment gives the judge discretion to decide if the loser pays, only in both directions, not just in favor of the direction of the attorney general, as the underlying bill does. That is a very simple clarification. It is not a mandatory ''loser pays'' rule.

Mr. President, I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. PRYOR. Reserving the right to object—

The PRESIDING OFFICER. At this time, there is not a sufficient second.

Mr. PRYOR. I yield back the remainder of my time. I move to table the Vitter amendment, and I 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. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), and the Senator from Illinois (Mr. OBAMA) are ncessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—56

Akaka	Cantwell	Dorgan
Baucus	Cardin	Durbin
Bayh	Carper	Feingold
Biden	Casey	Feinstein
Bingaman	Cochran	Harkin
Boxer	Conrad	Inouye
Brown	Dodd	Johnson
Kennedy	Menendez	Schumer
Kerry	Mikulski	Smith
Klobuchar	Murkowski	Snowe
Kohl	Murray	Specter
Landrieu	Nelson (FL)	Stabenow
Lautenberg	Nelson (NE)	Stevens
Leahy	Pryor	Tester
Levin	Reed	Warner
Lieberman	Reid	Webb
Lincoln	Rockefeller	Whitehouse
Martinez	Salazar	Wyden
McCaskill	Sanders	

NAYS—39

Alexander	Cornyn	Inhofe
Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bennett	DeMint	Lugar
Bond	Dole	McConnell
Brownback	Domenici	Roberts
Bunning	Ensign	Sessions
Burr	Enzi	Shelby
Chambliss	Graham	Sununu
Coburn	Grassley	Thune
Coleman	Gregg	Vitter
Collins	Hatch	Voinovich
Corker	Hutchison	Wicker

NOT VOTING—5

Byrd	Hagel	Obama
Clinton	McCain	

The motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Mr. President, I ask unanimous consent that I be recognized for up to 10 minutes to speak as in morning business.

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

IMMIGRATION

Mr. INHOFE. Mr. President, we have gone through a lot of activity and a lot of anguish on the floor concerning the immigration bills. There was a comprehensive immigration bill that did not work. It was something some people thought would be a good idea and, frankly, I opposed it.

But there is something that is happening right now that is a very good idea. There are 15 of us in the Senate who have taken different elements of concern having to do with illegal immigration, areas of specialty, if you will. It happens that 15 of us had a news conference yesterday, wherein we talked about approaching this differently—each one having his or her own legislation, and then you can support other legislation as you see fit.

It happens that there will be 15 bills that will be introduced. I will have one of those, and I will be supporting 14 of the other 15, or 13 of the other 14. So I think the way we are approaching this is good.

My area of specialty, that comes as no surprise, is in making English the national language. We have been talking about this for a long time. The approach we are talking about is a very simple approach. It is something that is popular.

I have had this on the floor of the Senate twice. In 2006, it was amendment No. 4064. It passed the Senate by a vote of 62 to 35. Again, in 2007, the support was even greater. That was amendment No. 1151. It passed—that was last year—by a vote of 64 to 33. So it is something that clearly is popular.

Let me explain the problem we have. One of the last things that was done in the Clinton administration was Executive Order 13166. This was an effort to make anyone who is receiving any kind of Government services to have the documentation in any language of his or her choice. It could be Swahili, it could be French, it could be any other language.

Now, the effort to make English the national language is not purely symbolic, as some of my colleagues might believe; rather, it will have a tangible impact.

After Executive Order No. 13166, there has been a high burden on Government agencies to provide translations for documents for services in virtually every language.

The cost is tremendous. It is quite a range. The U.S. Office of Management and Budget estimated the cost of providing these services to be between $1 and $2 billion each year.

The cost is not the only drawback of the entitlements of Executive Order No. 13166. It ultimately enables immigrants to avoid learning English which, regretfully, hurts their chances of effective assimilation into American culture. Historically, one of America's greatest attributes is the unity provided by having a language that is commonly used throughout the country. It is important for new legal immigrants to learn this language so they might communicate and achieve success.

As President Bush said in one of his messages, learning English ''allows newcomers to go from picking crops to opening a grocery [store] . . . from cleaning offices to running offices . . . from a life of low-paying jobs to a diploma, a career, and a home of their own.''

I can't think of any issue we have had before the Senate during the time I have been here that is more popular than this. A 2006 Zogby poll found that 84 percent of Americans, including 71 percent of Hispanics, believe English should be the national language of government operations. According to a 2002 Kaiser Foundation survey, 91 percent of foreign-born Latino immigrants agreed that learning English is essential to success. We have polling data going all the way back to 1996. In each case, 84 to 90 percent of the American people want this to take place.

I ask unanimous consent that these polls be printed in the RECORD.

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

NATIONAL ENGLISH AMENDMENT POLLS

All types of pollsters of all groups, liberal and conservative, immigrant and non-immigrant, with all wordings show consistently high levels of support for making English the official language of the United States:

(1) An April 2007 McLaughlin & Associates poll showed 80% of all Americans indicated that they would support a proposal to make English the official language.

(2) A December 2006 Zogby International poll showed that 92% of Americans believe that preserving English as our language is vital to maintaining our unity.

(3) A June 2006 Rasmussen Reports poll showed that making English the nation's official language is favored by 85% of Americans; this figure includes 92% of Republicans, 79% of Democrats, and 86% of those not affiliated with either major political party.

(4) A March 2006 Zogby International Poll showed 84% of likely voters support making English the official language of government operations with common-sense exceptions.

(5) A 2004 Zogby poll showed 92% of Republicans, 76% of Democrats and 76% of Independents favor making English the official language.

(6) In 2000, Public Opinion Strategies showed 84% favored English as the official language with only 12% opposed and 4% not sure.

(7) A 1996 national survey by Luntz Research asked, ''Do you think English should be made the Official Language of the United States?'' 86% of Americans supported making English the official language with only 12% opposed and 2% not sure.

Latino immigrants support the concept of Official English:

(1) An April 2007 McLaughlin & Associates poll showed that 80% of all Americans, including 62% of Latinos, would support a proposal to make English the official language.

(2) A March 2006 Zogby poll found that 84% of Americans, including 71% of Hispanics, believe English should be the official language of government operations.

(3) My favorite poll is this one: In 2004 the National Council of LaRaza found that 97% strongly (86.4%) or somewhat (10.9%) agreed that ''The ability to speak English is important to succeed in this country.''

Mr. INHOFE. People need to understand the significance. When I brought this up before, there were three objections. They were really absurd. It is almost laughable. One was, we will have to change all the State flags because some of them have other languages.

This has nothing to do with that. This merely says it is not an entitlement. It has nothing to do with State flags.

Another Member said: Inhofe, you will not be able to speak Spanish on the Senate floor. I have given several speeches in Spanish on the Senate floor. I will not go into why that is good. It has been very helpful. This has nothing to do with that.

Another said: You will have the blood of Hispanics on your hands.

I said: How is that going to happen?

They said: There are some strong currents down there in the Potomac, and we would not have ''no swimming'' signs in Spanish, so they wouldn't be able to read those. So they will go in there and drown.

If we look back historically, we see that many Presidents had things to say about this matter, dating all the way back to Theodore Roosevelt, and as recently as a statement by Hillary Clinton in her campaign in Iowa in 2007, less than a year ago, where she said: ''You're going to have to learn English.''

This one goes back to 1916:

Let us say to the immigrant not that we hope [they] will learn English, but that [they have] to learn English.

Theodore Roosevelt was clear on this.

Bill Clinton said in 1999 in his State of the Union message:

We have a responsibility to make [our new immigrants] welcome here, and they have the responsibility to enter the mainstream of American life. That means learning English and learning about our democratic system of government.

So everyone is in agreement. I don't know of anyone, nor any past President, who doesn't believe we are doing a great disservice by not helping our immigrants learn the English language.

We will continue to promote this bill until it passes into law. It should be one of the easiest of the 15 bills that are going to approach the problem of illegal immigrants. It is my intention to continue.

One of the interesting things about this is, there are 52 countries throughout the world who have English as their national language, including Ghana in West Africa. All of these countries have it except us.

The bill is very simple. I can tell in one sentence what it does:

Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English.

This is the law of some 52 countries around the world, almost everywhere except in the United States. It would save ultimately somewhere between $1 and $2 billion. And there are the other logical reasons for doing this. We will be pursuing this as 1 of the 15 efforts to have not a comprehensive bill, but to address the problem of illegal immigration. I look around and I see others who have good programs too.

The Senator from Arizona, Mr. KYL, has one that would utilize electronic evidence for employers so employers don't find themselves breaking the law as would have been the case on the previous bill. There are others wanting to finish the bridge. We will have 15 bills that we will be introducing or we have already introduced. If we can get all 15, that would pretty much resolve the problem. But it does afford the opportunity for any Member of this body to object to any area of interest in terms of these 15 bills.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent to proceed as in morning business for up to 15 minutes.

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

IMMIGRATION REFORM

Mr. SPECTER. Mr. President, I have sought recognition to follow the comments made by the distinguished Senator from Oklahoma concerning a group of Senators who met yesterday with a variety of proposals on immigration reform. One of those proposals was mine, S. 2720. This bill seeks to deal with a very serious public safety problem where illegal aliens who have been convicted of crimes of violence are permitted to walk free on the streets of America where their native country will not accept them for deportation.

This is the factual situation where the matter arises. A person is charged, for example, with aggravated robbery, serves 10 years in jail, is released from jail on the service of a maximum sentence, then is turned over to authorities from the immigration service for deportation. Then the efforts to deport the individual are not successful because his native country will not take him or her back. Under court rulings, the maximum that person can be held in detention is 180 days. That means after the service of the sentence, after being detained for 180 days, that person is then back on the streets of America where the statistics show a very high degree of recidivism or repeat offenses.

The legislation I am introducing would put pressure on native countries to take back for deportation their citizens under circumstances where they now refuse to do so by denying to those countries visas for their people who want to come to visit the United States.

There are currently some discretionary provisions on the books which, simply stated, have not worked. This would mandate that procedure. That kind of pressure is calculated to at least ameliorate the situation.

The second provision of the bill provides that foreign aid would be conditioned on countries accepting back their native citizens under the circumstances which I have just described. The United States has a tremendous foreign aid program where allocations are made for a variety of what we consider to be in our national interest or in humanitarian interest. Here again we have a potentially effective tool for dealing with countries who refuse to accept back their own citizens where they have been ordered deported by the United States.

In analyzing the problem further, no matter what we do under these circumstances, it is not possible to compel all foreign countries to accept their nationals back when they are subject to deportation. We are currently examining the possibilities of having some additional detention. Candidly, it is difficult to structure consistent with constitutional rights, which apply to these individuals, and consistent with due process of law. There are some provisions, for example, when someone is

arrested on a charge to be held in preventative detention, where there is reason to believe that individual will flee. So the presumption of innocence still applies, and detention can be held for a relatively brief period of time.

We are also looking at some possible alternatives under sexual predators, where some legislation has been passed, where even after the completion of a full sentence there is a form of civil commitment. We are examining the ramifications of that kind of legislation to be sure it comports with due process and with constitutional protections.

AMENDMENTS NOS. 4094 AND 4097

While I have the floor, I will comment about the vote we just had on the Vitter amendment and the vote we had yesterday on the Cornyn amendment. Both amendments raise similar issues.

The amendment offered by the Senator from Texas, Mr. CORNYN, would bar attorneys general from retaining outside counsel on a contingency fee basis. The amendment offered by the Senator from Louisiana, Mr. VITTER, would impose costs on State attorneys general who lose cases brought under the pending legislation. Both amendments have similar elements. I believe the underlying reason Senator CORNYN has advocated for his amendment is not sufficient for such a broad legislative change. Senator CORNYN's amendment arises from a case in Texas where the attorney general went to Federal prison for corruption when hiring a friend on a contingency fee basis. It may be that the Senator from Texas has a valid point. He served as the attorney general for the State of Texas and has considerable experience in the field.

I have had some experience as a prosecuting attorney myself with similar kinds of discretion. It is my view that before we undertake such a fundamental change in procedure, there ought to be some extensive consideration and deliberation.

The Senate is, by reputation, the world's greatest deliberative body. For those who may inadvertently be watching on C–SPAN, a short statement of the legislative process is in order. The way we function on legislation is that a Member has an idea and puts it in a bill and files it. The bill is then referred to a committee. In this case, legislation involving courts and attorneys would be referred to the Judiciary Committee. The Judiciary Committee holds hearings and hears from witnesses who are experienced in the field: attorneys general, defense lawyers, lawyers who have been retained by attorneys general, judges, and scholars. We listen at length, and we ask the witnesses questions.

Unfortunately, you can't see all of those hearings live because they are preempted. However, maybe you can see it on rerun on C–SPAN 3. But those are hearings which provide some basis for a judgment as to what should be done in the Senate.

The amendment offered by the Senator from Texas was not referred to committee. I think it is a matter which ought to be considered and analyzed. Under Senate procedure, any Senator may offer an amendment to the bill which he or she chooses. There is a brief time for argument—it could not have been more than several hours yesterday. I was involved in other matters and could not come to the floor. Following debate, a vote is called. The first time many of us in this body consider the issue is when we are en route from our offices to the Chamber to vote.

For those of you who watch C–SPAN2, you will notice that in the course of a 15-minute vote—which is extended by custom to 20 minutes, and sometimes beyond—most of the Senators do not arrive here until late in the process. Those watching will notice a big huddle by each desk. You may wonder, what is going on? Well, what is going on is that the Senator walks in the Chamber and takes a look at a yellow or white pad with a one-paragraph description of the bill or amendment.

There is some hasty discussion, sometimes by the proponent of the bill and sometimes by the opponent of the bill. There is hardly what you call deliberation and not what you have when the legislative process is followed. When the legislative process is followed the bill is introduced. Following introduction, there are hearings on the bill and there is what we call a markup. For example, at the Judiciary Committee markup, there have to be at least 10 of 19 members present in order to vote the bill out of committee. At the markup there is an opportunity for discussion, analysis, and even modification of the bill.

After consideration by the committee, the bill comes to the Senate floor with a committee report. The committee report describes the bill. Senators have a chance to read the committee report or, to be more candid, staff has a chance to read the committee report. It is not physically possible to read all the committee reports and all the materials that come across a Senator's desk—it just cannot be done. But at least you have a staffer who writes you a memorandum highlighting the essential points and have a chance to question the staffer. You then come to the floor on the debate with some notice about what the debate is about.

It seems to me on matters of importance that we ought to go through full Senate procedure. It is my view that Congress has to be very careful in what we do by way of mandates to the States. We also need to be careful when telling the States how to run their business and by telling attorneys general what is best for their State. There are some offices of attorneys general in the United States which are not elaborately staffed.

When I was DA of Philadelphia, I had 170 attorneys. I don't know how many attorneys general have limited staffs, nor do I understand their workload or their backlog. There is no reason for me to get involved in the business of state attorneys general. State attorneys general are elected by the people of their State or appointed under State constitutional provisions. It is up to them to make a decision as to how they run their offices. As a basic matter of federalism, we should leave it up to the state attorneys general. We ought to consider the most serious problems of national import. We cannot get into the details of all the State attorneys general offices.

The Senator from Texas talks about creative ways for lawyers to structure contingency fee agreements. Perhaps the amendment of the Senator from Texas would be improved if the attorney general had to go to court to get judicial approval to hire outside counsel on a contingency fee basis. At this time, the attorney general would inform the court of his office's resources and his reasons for needing to enter into a contingency fee contract. This would allow the matter to be decided on a case-by-case basis.

Now, moving to the amendment by the Senator from Louisiana, Mr. VITTER. There is an effort to have the losing party pay for the costs of litigation and costs of reasonable attorneys' fees. It is designed—as the brief one paragraph said—to avoid frivolous lawsuits. I think it is a very good idea to avoid frivolous lawsuits.

The existing rules in Federal court provide for the handling of frivolous lawsuits by imposing costs on the losing party. Following a motion by the party who is being sued, the judge determines whether to dismiss the case under Rule 11 of the Federal Rules of Civil Procedure.

Senator VITTER wants to impose a blanket rule, where in every case, the loser pays. It may be that the United States ought to go to the British system, which is a ''loser pays'' system. However, that would be a very drastic change in our court procedure. It is even possible that we ought to go to a ''loser pays'' system in the conditions contemplated under the pending legislation. But that would be a very material change if we were to make that sort of a shift at this time.

Again, we ought to be following the regular Senate procedures. Let Senator VITTER introduce the bill. Let it be referred to the Judiciary Committee. There will be hearings and thorough analysis. Following hearings, there will be a markup and the bill will come to the floor with a committee report. The appropriate deliberation would take place.

If Senator VITTER's amendment were to be adopted, perhaps it ought to be modified on a discretionary basis. The court could impose costs on the losing party if the judge determines that the case is frivolous.

You might have a meritorious case with a very close question. That is

what we do in America with our differences of views between parties. Different sides are presented in court and a determination is made. There is a necessity for a lot of room.

The Senate wisely defeated both of these amendments. On their surface, there is a great deal to commend Senator CORNYN's amendment to eliminate contingency fee arrangements. There is the situation where the Texas State Attorney General went to jail for corruption. Of course, it is more than contingency fees in that case. People who read an abbreviated statement in the newspapers might think the Senate made a mistake in rejecting the Cornyn amendment. We need to examine the issue closer.

Here again, on the surface, you might think the amendment by Senator VITTER has merit to impose costs on the losing party. After all, if they lost, why shouldn't they pay for it? But you have to go beyond that and examine the issue further.

I am prepared to consider both amendments. I am prepared to consider the ideas of my colleagues in the Senate. But I want to do that in the course of the legislative process, where we follow regular order: a bill is introduced, goes to committee, the committee has hearings, the committee hears witnesses, the committee sits down with a majority of its members, and the bill comes to the floor with a committee report.

I know the votes have already been cast on the amendments I have spoken about, but I thought it might be useful to take the floor and give the public a fuller understanding of what we do in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I am here today to talk about the bill that is pending on the floor. I am very pleased this bill is advancing, the Consumer Product Safety Commission bill, that involves so many important provisions.

But in my State, I will tell you this: We are very focused on the provision dealing with the toxic toys. I can tell you, after being in the Senate for only a year, it is truly an inspiration to see we were able to get a bill through our committee—thanks to the leadership of Senator PRYOR and Senator INOUYE and Senator STEVENS—and get it to the floor.

The reason it is so important in our State is we had a little boy who died, a 4-year-old boy who swallowed a charm that was given to him with a pair of tennis shoes. He did not die from choking on the charm. He did not die from his airway being blocked. He died when the lead went into his bloodstream day after day after day. When that charm was tested, it was 99 percent lead. It was from China. His own blood, when he died, had three times the normal amount of lead.

It is a very sad story. But it is some solace to the people in our State that after only being here a year, and as a member of the Commerce Committee, I was able to work to make sure we have a Federal lead standard in this bill. It is rewarding, indeed, that it looks like today we may be completing our work.

I say to the Presiding Officer, I know you have seen this in Ohio. We have seen toy after toy recalled in this country. In fact, 29 million toys—look at this chart—were recalled in 2007 alone. Look at this: This is a calendar of the various dates with the various toys that were recalled in the year 2007 and into January and February of 2008.

We saw the Thomas the Trains that were recalled. We saw Dora the Explorer, we saw SpongeBob SquarePants being recalled—these toys that are so near and dear to people's hearts. You get a sense of it with the calendar, but this list is an actual documentation of all the toys that have been recalled in the last year and 3 months.

You have things such as necklaces, Rachael Rose Kidz rings. You have the trains, the Cub Scout badges, ugly teeth that you put in your mouth for Halloween, of course, the Aqua Dots that morphed into the date rape drug. You can go on and on and on.

I think it is stunning at this time in our history we would still have something such as this happening. I think many people thought in the 1970s—when we got our act together in this country about consumer protection and we strengthened the laws and we realized kids were dying from problems, with everything from cribs to dangerous toys, to flammable pajamas—this country got its act together.

Well, look what happened instead. We have seen a record number of imports coming in from other countries that do not have the safety standards we do.

This was brought home to us—and it was more than toy recalls and numbers—when a few days ago Senator PRYOR and I met with the families of two children who almost died from toxic toys.

The first is Jacob—or Jack, as his family knows him. His mother Shelby came from Arkansas to the Capitol. She told her story in a way I will never do justice to—a very touching story—where she talked about the fear she had on this day. It was a normal day. Any parent can imagine this. You start out. You are in the kitchen. It was October 30, 2007. Jack was 20 months old at the time.

What happened was, his older sister had these Aqua Dots that you put in water and they transform into an animal or something like that. He swallowed some of them. All of a sudden, this little boy was standing there, throwing up and stumbling around. She immediately took him to Arkansas Children's Hospital, where he was treated by a doctor, Dr. Jaeger.

Suddenly, this little boy, Jacob—Jack—went into a coma. They had no idea what caused it. Kids swallow things, as we know, all the time. They will swallow a penny. They will swallow something. It is not a good thing, but they do not immediately go into a coma. He was in a coma for about 6 hours. They thought they were going to lose him because no one could figure out what happened.

Well, she said, just like this, he came out of the coma and he was fine. The doctor was in shock. The doctor said if he had not been there, he would not have even believed it had happened.

So they got him home. No one figured out what happened. She got on the Web site herself—the mom did—trying to figure out what was in Aqua Dots. She called the company. Everyone was trying to figure it out.

Finally, they did some testing in the next few days, and they found out the coating that was put on these particular Aqua Dots metabolized into a chemical compound known as the date rape drug. As a former prosecutor, I can tell you we have handled cases involving date rape drugs. This is not a little thing. These are used to knock people out for hours so crimes can occur, and they take vulnerable victims and try to put them to sleep. That is what happened with these Aqua Dots.

These simple little toys—that are supposed to be pet pals—morphed into a date rape drug right in this little boy's stomach. So she came and told us this story.

On November 7, Spin Master—the company that makes Aqua Dots—recalled the product. The chemical that is in these little beads could cause children—they figured out—to become comatose, develop respiratory depression or have seizures. Luckily, this little boy survived. This is what we were dealing with.

Then, another family came and talked to Senator PRYOR and me. This is Colton, also a little boy. He is a little older than Jacob. Their family lives in Oregon. The mom told us this story:

In 2003, when Colton was only 4 years old, he swallowed a little trinket they had gotten out of a gumball machine. It was later determined—they couldn't figure out why he was so sick. He was having trouble. He was not himself. They took him to the doctor. They figured out he swallowed this lead. They got the toy out of him, but they figured out later that this toy was 39 percent lead. His lead levels—this little boy, Colton—at the time were considered fatal, but he survived. This led, actually, to the recall of 150 million pieces of gumball machine jewelry.

Now, this is not that different from the story I told you about Jarnell. This mom told me when we met earlier in the week that when she heard about Jarnell, it all came back to her. She spent the last 2 years trying to be an advocate, all by herself—Colton's mom—to get something done on this, and then imagine how she felt when she read that this little boy, Jarnell, in Indianapolis had died from exactly the same kind of charm, these lead charms;

something like that went into his system. The one Jarnell had was 99 percent lead. Luckily for little Colton, the piece he had was only 39 percent lead. But now, even today, Colton's lead levels, even when he is much older, are at 17. They are not where they should be, and they are constantly on alert for what might go wrong. If he has a growth spurt or if he breaks his bones, his lead levels will increase, and they don't know the effect that will have. We all know it is very dangerous, the brain damage in children and other things it does.

The other thing about these charms—and we are very focused on little kids swallowing them, but the other thing about them is that necklaces can also affect teenage girls because they put these necklaces on, and then they are sitting in class or they are with their friends, and they chew on them. I have seen little girls actually do this—teenage girls. They are cheaper jewelry charms, and they start to chew on them. Well, in January 2007, 114,000 necklaces were recalled because the pendants contained high levels of lead, these kinds of pendants that continue to be recalled throughout this year.

Another example: In February of 2007, almost 300,000 Rachael Rose rings, which were worn by very young kids who wanted to try on a ring and have a ring on, were recalled.

In June of 2007, we had the Thomas & Friends, which was the first batch of 1.5 million recalls. This story is one that is worth noting. The Presiding Officer will be interested in this one.

These were toys that were manufactured and painted in China. The RC2 Company, when they found out about it, called for a recall. They were very embarrassed about the safety record. They appropriately apologized to their customers, saying they would make every effort to ensure this wouldn't happen again, and to help encourage customer loyalty and to prompt customers to return the trains, they actually said: You know what, we will give you a bonus gift. We are going to replace the toys, and we will send you a bonus gift if you send in your toys that have been recalled. So all of these parents sent in their recalled toys. As you can imagine, they are trying to figure out which toy is recalled and which isn't. Is it the caboose or the boxcar? They end up sending it back to get this bonus gift. Guess what. This bonus gift backfired in a big way. It was discovered that 2,000 of these bonus gift items contained lead paint levels 4 times higher than legally allowed, leaving the parents of these toddlers to deal with what we call the double recall.

Then, in August 2007, almost 1 million Sesame Street and Dora the Explorer toys were recalled by Fisher-Price. In October 2007, 1,600,000 Cub Scout badges were recalled for extremely high lead levels. Just this last Halloween, just a few days before Halloween, 43,000 Ugly Teeth toys were recalled that kids put in their mouths for Halloween.

This is just what I call the ''greatest hit list.'' There were over 9 million toys recalled by hundreds of different companies in 2007, with a total of 27 million toys recalled.

Yet we have known about this danger for 30 years. That is what is so shocking about this. As we advance in this country with technology, with BlackBerrys and cell phones, it is unbelievable that we would be stepping back. The science is clear. It is an undisputed fact that lead poisons children. It should not have taken us this long to take lead out of the hands of our children, out of their mouths.

It is the Consumer Product Safety Commission's job to do this. When they started seeing all of these imports coming in, they should have done something. They should have come to Congress and said: We think we see a problem here. We are going to need more people. We are going to need more toy inspectors. It was Congress that had to take the lead to get this moving. The burden should not fall on parents or kids to tell if a toy train is coated with lead paint. Who is going to be able to figure that out? You figure that if you buy a toy from a reputable store, it is going to be OK. I think it is shocking for most parents when they realize there has never been a mandatory ban on lead in kids' toys in this country—never. Until this legislation, there has never been a mandatory ban.

In response to a series of letters I wrote to Chairwoman Nord in August about the dangers of lead in children's products, the Chairwoman responded on September 11. In this letter, Chairwoman Nord acknowledged that:

> The CPSC does not have the authority to ban lead in all children's products without considering exposures and risks on a product-by-product basis.

Chairwoman Nord went on to say that were the CPSC—the Consumer Product Safety Commission—to attempt banning lead in all children's products:

> It would likely take several years and millions of dollars in staff and other resources.

This response makes it clear that Congress cannot wait for the Consumer Product Safety Commission to act. They have had years. They have known this was increasing, these imports and what was going on for years, and they didn't act. That is why we need this bill. According to them, to give them the benefit of the doubt, they didn't have the tools or the resources to do their job. Now, it would have been nice if they had come earlier than this year to act, but they didn't have the tools on the books. So that is what this bill is about.

To talk a little bit more about the specifics, this legislation effectively bans lead in all children's products by classifying lead as a banned hazardous substance under the Federal Hazardous Substance Act. This was a part of the bill that incorporates the bill we wrote out of our office. The reason I, of course, was so focused on this was because of the fact that this little boy died in our State.

The bill sets a ceiling for a trace level of allowable lead at .03 percent of the total weight of a part of children's products, or 300 parts per million. Some States across the country have put these in because of inaction by the Federal Government. Some are set at .04. California has .04 for toys and .02 for jewelry. We decided the best way to do this is to set it at .03 for the first year, a year after the bill takes effect, and then, actually within a few years, go down to .01 because the science supports that we should be able to get it down to .01 percent of the total weight of kids' toys for lead. The idea is that, in fact, as some of the pediatrician groups believe, we can do this and we can maybe go lower than that, to trace levels of lead, and we allow the Consumer Product Safety Commission to do a rulemaking so that if they would like, and the science supports it, they can actually go down to zero or go lower if they would like. But these are trace levels of lead that are actually more aggressive than you see in some of the States.

The legislation also sets an even lower threshold for paint. Under this bill, the allowable level of lead paint would drop immediately to 90 parts per million. This lower threshold is critical because science has shown that as children put products in their mouths, it is the painted coatings which are the most easily accessible to kids. Every parent of a toddler knows this to be true. On these lead-tainted Thomas trains, you can always see, on the ones I have seen that have been brought into my office by parents who are worried, those little teeth marks of kids who are chewing on these toys.

I will tell my colleagues that people say: Well, what is the Consumer Product Safety Commission doing now? They have a voluntary standard at .06. So the standard is higher. The key is that it is voluntary, so they have to call and negotiate with the companies if they want to do a recall. A lot of our retailers in Minnesota, including Target and Toys ''R'' Us, have been very frustrated by this because they are negotiating with the manufacturer, so it is not clear. They want to get the products off their shelves, but they haven't been recalled yet. So this makes it much simpler because it is a mandatory Federal lead standard.

The other part of the bill that came out of a bill we drafted and which is very important to me—and I think it comes from being a mom, and it is practical—is making it easier when there is a recall to be able to identify the toys.

Now, when I talk to my friends, they say: What am I supposed to do? I hear about this recall. I go to the Consumer Product Safety Commission Web site. I can't tell which caboose, which train. Is it the boxcars? Is it the caboose?

Which brunette Barbie? Which blond Barbie?

Big surprise: They don't keep the packaging. I don't think anyone but my mother-in-law keeps packaging for toys, because she saves everything.

What our bill does is basically says the batch numbers, when practical, should be on the toys. They won't be on Pick-Up Sticks, obviously, but they can be on the foot of a Barbie or on the bottom of these little toys which actually say on the bottom ''caboose'' or ''boxcar,'' and there can be a batch number. So it will be easier for parents to identify which toy they can get out of their kid's box.

We also have put in this bill a requirement that the numbers be on the actual packaging. Even though parents will throw the packaging away, we think that is important because the mom-and-pop retail stores, the little retail stores, and also the Internet—people will still have the packaging. So Target, Toys ''R'' Us, and Wal-Mart are going to be able to put into their computer system when a toy is recalled immediately so you can't sell it through the line. That is not as easy for smaller stores. It may not be as easy for a little drugstore or grocery store and also certainly not easy for people buying on eBay or selling on eBay. So we also require that the batch numbers be on the packaging.

As we all know, the Consumer Product Safety Commission's last authorization expired in 1992, and its statutes have not been updated since 1990. That is why what Senator PRYOR has done as the chair of the consumer subcommittee—and I am proud to be a member of that subcommittee and to have worked with him on this bill—is so significant.

You think about how the marketplace has changed in these 16 years and what we have seen in the growth for imports from countries that don't have our same standards. Yet, at the same time, the Commission is a shadow of its former self. Although the number of imports has tripled—tripled—in recent years and the number of recalls, as I noted earlier, has been increasing by the millions, the number of Commission staff and inspectors at the Consumer Product Safety Commission has dropped by more than half, falling from a high in 1980—as my colleagues can see right here—falling from a high of 978 to 393 today. Look at that change. Maybe that wouldn't have mattered if we suddenly had fewer toys in this country, maybe if we had a third of the imports coming in. In fact, we have seen a tripling of imports from countries that do not have the same safety standards as we do. In total, the Consumer Product Safety Commission has only about 100 field investigators and compliance personnel nationwide.

What this legislation does—and we already started, actually, back in December, where we gave the Consumer Product Safety Commission, through our omnibus budget bill, some funds to hire more inspectors—this legislation more than doubles the Consumer Product Safety Commission's budget so that they can get those toy inspectors on board.

This bill provides some needed help to increase the inspection, the research, and regulation staff. It puts 50 more staff at U.S. ports of entry in the next 2 years. Some were announced just yesterday as a result of the work of this Congress.

Not only does this bill give the necessary funding and staff to the Consumer Product Safety Commission, but it gives the Commission the ability to enforce violations of consumer product safety laws. This bill finally makes it criminal—criminal—to sell recalled products.

We have seen too many headlines this year to sit around and think this problem is going to solve itself. As a Senator, I feel strongly that it is important to take this step to protect the safety of our children. When I think about that little 4-year-old boy's parents back in Minnesota and I think about the children all over this country who have been hurt and the parents who have lost sleep just trying to figure out if what they are doing is right or what are they going to buy their kids for Christmas or what are they going to do about this problem—they shouldn't be thinking about those things in this day and age. We can beef up this agency that has been languishing for years. We can put the rules in place and make it easier for them to do their jobs.

So this isn't just a matter of banning lead in children's toys. This bill is a matter of implementing consumer safety laws and regulations. It is a matter of protecting kids from more harmful products. It is a matter of helping parents to understand what to do when something has been recalled. It is a matter of keeping customers informed and safe when purchasing products in the United States. And it is a matter of bringing the CPSC back into the 21st century. As I said, all of the toys were overseen by a guy named Bob, with a back office full of toys. He would be dropping them to see what happened and what didn't. He is retired now.

We are moving into the next century. This is a matter of getting serious about consumer safety. We have to say Congress cares about the families in this country. People get mad about the Congress because it takes so long to get things done. This is a bread-and-butter bill, about helping families.

With the bipartisan help of our Senate colleagues, we can pass this meaningful bill that gives the CPSC the tools they need to do their job, and it also sets clear and unequivocal standards of what is safe and what is not in this country.

The current system has been broken by years of neglect, by an agency that hasn't told the truth about its problems, and by an administration that has closed its eyes to what has been going on. This Congress can fix this. The Consumer Product Safety Commission Reform Act represents some of the most sweeping reforms we have seen in 16 years for consumer safety.

The Wall Street Journal said:

> The Consumer Product Safety Act is the most significant consumer safety legislation in a generation.

We can pass this legislation today, Madam President.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, I ask unanimous consent that I be recognized for up to 10 minutes in morning business.

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

THE PATH ACT

Mr. INHOFE. Madam President, about an hour ago, I was presenting a bill that we had introduced as part of 15 bills to resolve the illegal immigration problem. It is one that I have done many times before, which is making English the official language, or national language, for the United States. I think it is one that has enjoyed a great deal of popularity. It has passed this body before by almost a 2-to-1 margin, in 2006 and in 2007.

At the conclusion of my presentation on this legislation, I neglected to ask that a copy of the bill, S. 2715, be printed in the RECORD following my remarks. I will soon ask that it be printed in the RECORD.

Madam President, I am joined by several colleagues, including Senators COCHRAN, WICKER, DOMENICI, SHELBY, and others, in introducing the Preserving Access to Hospice Act, a bill to ensure that America's terminally ill seniors have access to hospice care by providing immediate relief for hospices that are impacted by the Medicare hospice cap, through the establishment of a moratorium on the calculation and collection of the hospice cap for fiscal 2006, 2007, and 2008, and the authorization of a MedPAC study on the cap issue.

My fellow Oklahoman in the House of Representatives, JOHN SULLIVAN, today introduced the same companion bill on the House side.

Because of a flawed law, the Federal Government is requiring hospices to repay the Centers for Medicare and Medicaid Services, CMS, for serving eligible patients in prior years. Many small family and community-owned hospices will be forced to close, patients will lose access to hospice care, and local jobs will be lost. In Oklahoma especially, hospice care companies of all sizes service a large number of Oklahomans.

In 1982, Congress initiated hospice as a Medicare benefit for terminally ill patients. In the 1980s and 1990s, Congress worked to broaden hospice coverage to ensure each eligible beneficiary has access to unlimited days of hospice care, regardless of their diagnosis.

Medicare pays hospice a flat fee per patient per day regardless of the actual cost. The hospice is then responsible for all costs related to the care of its patient until their death, regardless of how long they remain under their care. However, under the hospice Medicare benefit, Medicare caps the number of days they will pay per patient. Hospices cannot manage this cap without rationing access of care to these terminally ill patients who elect the hospice benefit for however long they remain eligible.

I have to say at this time that some of the best spent money in this type of care is the hospices.

At the end of the care, CMS has been recalculating how much they have paid the hospice per patient and what the eligible cap days were for each patient. This is something done after the patient has already received care. If they paid the hospice more than was allowed under the cap, the hospice is required to repay Medicare. Therefore, hospices are being contacted by CMS and asked to repay millions of dollars used to care for these dying patients. In 1999, very few hospices were hitting the cap because Medicare had strict restrictions on who was eligible for the benefits. As the eligibility and longevity has increased, hospices started to go over the cap.

In 2005, 41 percent of the hospices providing care in my State of Oklahoma received letters from CMS demanding repayment. Obviously, the recalculation is unfair and will result in patients being denied hospice care, and many Oklahoma hospices are going bankrupt. As Congress and CMS examine this issue, temporary relief is needed so that the patients can continue to have access to hospice care and hospice providers do not face bankruptcy. My legislation provides immediate relief for impacted hospices by establishing a moratorium on the calculation and collection of the hospice cap for fiscal years 2006, 2007, and 2008, and authorizing a MedPAC study to determine the best way to address this hospice cap issue.

I have been working since early 2007 to help small community hospices in Oklahoma as they face repayment letters from CMS for millions of dollars. Without a moratorium, these Oklahoma hospices, as well as hospices in numerous other States, will be unable to meet demands for repayment. As a result, hospices will be forced to close and discharge significant numbers of terminally ill patients, possibly into more expensive care.

So I ask you to join me in supporting this legislation that will protect our terminally ill seniors' access to hospice care.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2715

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 ''National Language Act of 2008''.

SEC. 2. AMENDMENT TO TITLE 4.

Title 4, United States Code, is amended by adding at the end the following:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

''Sec.
''161. Declaration of national language.
''162. Preserving and enhancing the role of the national language.
''163. Use of language other than English.

"§ 161. Declaration of national language

''English shall be the national language of the Government of the United States.

"§ 162. Preserving and enhancing the role of the national language

''(a) IN GENERAL.—The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America.

''(b) EXCEPTION.—Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If an exception is made with respect to the use of a language other than English, the exception does not create a legal entitlement to additional services in that language or any language other than English.

''(c) FORMS.—If any form is issued by the Federal Government in a language other than English (or such form is completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

"§ 163. Use of language other than English

''Nothing in this chapter shall prohibit the use of a language other than English.''.

SEC. 3. CONFORMING AMENDMENT.

The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

''6. Language of the Government ..... 161''.

Mr. INHOFE. I yield the floor and 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. BROWN. 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. BROWN. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

ORAL HEALTH

Mr. BROWN. Madam President, around this time last year, we heard the news story of Deamonte Driver. He was a 12-year-old living in Prince George's County, MD, a short driving distance from this building.

Deamonte had a toothache. His family was poor and they didn't have health insurance. They could not afford to pay out of pocket for dental care. Although in the past they had Medicaid coverage, it was nearly impossible, as it is in most places—Missouri, Ohio, Arkansas, and most places—to find a dentist who took Medicaid patients. The infection from Deamonte's tooth spread to his brain. His family took him to the hospital, only to find out that his Medicaid coverage had lapsed because the paperwork to confirm eligibility was mailed to a homeless shelter where the family had spent some time. Deamonte died after surgery, after 2 weeks in the hospital and $200,000 in medical bills.

Deamonte's death was tragic and needless and that is unconscionable. Families across the country were shocked by this story.

This story illustrates what is wrong with our health care system. Several years ago in Cleveland, an 11-year-old girl was missing. She had disappeared for some time. When they discovered her body, they could not check her dental records because she had never been to a dentist. It took some time to identify who she was.

The story of the girl in Cleveland and the story of Deamonte in Prince George's County, MD, illustrates what is wrong with our health care system. It also provides a map for how we can make it better.

This week, with a Congressman from Maryland, I am introducing the Deamonte Driver Dental Care Access Improvement Act. The goal of the bill is simple: to increase access to dental care for the underserved in our country and to tackle access problems for dental care from multiple angles.

This bill strengthens our system of care by providing grants to community health centers—they give terrific care in communities that are underserved all over the country—so they can expand the dental services they provide—not all of them do at this point—including mobile dentistry and teledentistry services.

The bill also provides grants to create dental health professionals whose mission is to work with communities to provide care for the underserved. People who are not dentists get some training, significant training, so they can help dentists and dental hygienists do their job.

To create incentives for dentists, the bill provides tax credits to dentists who serve Medicaid, the Children's Health Insurance Program, and uninsured populations.

The bill invests also in prevention. Half of the battle will be to increase dental health promotion activities among families.

Other provisions address maternal health and Medicaid reimbursement.

In Ohio, dental care is the No. 1 unmet health care need among children, unequivocally. In the last year, as I have traveled around the State, I held 85 roundtables where I sat down with 20 or 25 people from the community and asked them questions about their community and what we can do together in this community with the Senate office. I have done it in about 55

counties. I hear stories about how families are struggling with dental problems. A lot of these stories are similar to that of Deamonte Driver.

Recently, I learned about the story of Tyler Panko, a 5-year-old with autism who lives in rural Ohio. His father is self-employed. He took Tyler to four dentists to try to get care for his son who suffered from debilitating tooth decay and poor weight gain. No dentist within a 100-mile radius would accept Tyler as a patient due to his medical condition and Medicaid coverage.

Tyler was ultimately referred to the Ohio State College of Dentistry where he was treated under general anesthesia due to the severity of his disease.

Tyler's parents were so distraught about their son's well-being that they wanted to stay in Columbus the night before the surgery so as to not miss the appointment. They live in a trailer in rural Ohio. They could not afford both transportation and lodging, so the pediatric dentistry faculty at OSU College of Dentistry covered the family's lodging costs.

Since then, Tyler has been eating, gaining weight, and no longer wakes up crying, holding his mouth. Imagine that. The parents of a child cannot do anything for their child, and the child wakes up crying at night holding his mouth.

Tyler's story ended well. But how many other children and adults in my State and around the country are suffering from lack of dental care.

Yet it is typically overlooked when policymakers turn to the issue of health care access. People often think of health care in terms of the physical body from the neck down, and they overlook the importance of dental health.

It is almost as if including dental health in the health care debate is a luxury or an afterthought, a minor concern that doesn't merit our time. It is a foolish, and sometimes even deadly, misperception.

Addressing dental care also helps our workforce.

It is not obvious to most of us in most of our lives most of the time, but dental health is an indicator of socioeconomic status in our society. Those with beautiful teeth, those who have had the luxury of braces, those who have gone to regular dental appointments because their families can afford it or their families have dental insurance can have the confidence of smiling at a potential employer at a job interview.

For people with missing teeth, many of them at amazingly young ages, or crooked teeth or other problems related to the lack of access to dental care, their economic struggle shows, and it causes them to be treated differently from those who can go to the dentist regularly.

Again, think about a job interview: You are 24 years old; you are looking for a job; you have bad teeth; you know how that makes everything much harder.

People with painful dental problems are also more likely to miss school and later on miss work. We need to remove barriers to care for every American. We need to address the entrenched racial and economic disparities that exist in dental health. I want to keep families from relying on emergency rooms for dental care. There is simply no reason for that to happen. I want people to know how to prevent cavities and gum disease. I want to find ways to encourage dentists to accept Medicaid and CHIP and uninsured people. I don't want anyone to be held back from their ambitions because of their dental problems.

I hope my colleagues will help me in reaching these goals by supporting this bill. I thank the senior Senator from Mississippi, Mr. COCHRAN, for his cosponsorship of this bill. It is bipartisan. It is legislation whose time has come. It is legislation for those whom we pretty often ignore in this Chamber.

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. PRYOR. 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. PRYOR. Madam President, I wish to give my colleagues a sense of where we are on the bill. Generally, we have good news. I mentioned an hour or so ago, maybe 2 hours ago, the fact that Senator STEVENS and his staff and my staff have worked through a series of amendments. There are 12 or more amendments in a managers' package. There is language that is being worked on now to maybe add more to the managers' package. Various Senators on both sides of the aisle have had constructive amendments, and all amendments have been germane. That is great news. We thank all Senators and their staffs for keeping every single amendment germane. That is very constructive and very positive.

At the moment, we are waiting on some language on some amendments that maybe can be agreed to further without rollcall votes. We would love to set up some rollcall votes at some point in the next few hours.

As I said earlier, I do not want to say this and regret it, but the way things are going, certainly this has the feel that we could possibly finish this bill this afternoon rather than this evening. If we have to work into the night or even into tomorrow, we will do that. Given the cooperative spirit and the nature of the amendments and the collegiality of Senators on this legislation, I think we can definitely finish today. As I said, I know a lot of Senators who would love to be able to wrap this up and get out of here earlier than they expected. That would be great news if we could pull that off. We are working very hard for that result.

Again, I thank the staff of all the Senators who have been working on these amendments with us. I thank the Senators because it has been a very productive week and a very constructive process.

I wish to talk about one of the issues that is outstanding. We may have a vote on it later today. We don't know yet. It is a whistleblower provision. I wish to inform my colleagues of the goal we had of writing into the bill whistleblower protection. We want to make sure that when people come across a safety violation and they tell the Consumer Product Safety Commission about it, they not be punished for doing the right thing.

We tried to find a balance in this issue. This provision has changed quite a bit throughout the course of the life of this bill. We have to remember there is a compelling Government interest in the public's safety and welfare. So we are trying to find that balance. We are certainly trying to protect the public's safety and welfare. We want to keep these dangerous products out of the stream of commerce, but at the same time, we have heard the concerns and the objections mostly by the business community.

Let me say this about whistleblower protection: I know this has been a source of much debate and many votes in the Senate over the last several Congresses. I remind my colleagues that whistleblower protection is not a novel idea. This is not a new concept. We actually see whistleblower protection in many Federal laws this Congress has passed.

Since the year 2000, Congress has passed several whistleblower laws that have been very similar to what we have drafted in S. 2663, including Air 21, for airline workers; Sarbanes-Oxley, for employees of publicly traded corporations; the Pipeline Safety Act, for oil pipeline employees; the Energy Policy Act, for nuclear workers; the Implementing Recommendations of the 9/11 Commission Act, for railroad and public transportation workers; and even as recently as this year in the Defense Authorization Act.

We have drafted our provision based on existing law. The Surface Transportation Assistance Act is the model we use to try to extend whistleblower protection under narrow circumstances in this act.

I will give a few examples. I will limit it to two real-life examples. In 2002, a product designer for a lighting manufacturer was fired after he informed management about the dangerous conditions of certain lighting products, and he refused to violate the law by passing the products on to the customers before they were thoroughly tested. That person did not have any recourse when he was terminated by his company.

We understand, we are very sensitive to a company's desire to have employees who can follow instructions and can be productive, but at the same

time, there is a compelling public interest in the fact that we are talking about the safety of our citizens in this country.

Another example from 1995: An employee of a wire and cable company reported there was a shipment of defective wire. He reported that to a customer because he was concerned the wire would be used in fire alarms in hotels, residences, and high-rise buildings. The employee refused the company's directive to ignore the problems with that wire, and he was fired.

Not to get into the details of that case, but we see that whistleblower protection, if we build in the right parameters, might make sense. What we did through this process is we tried to listen to the business community's concern. There has been a myth floating out there that if this law passes, then a business will never be able to fire a disruptive employee. That is not true. Certainly, we are trying to find that balance. Whistleblower protections would not protect an employee who is going to be fired anyway. It would not protect a disruptive employee who is not a good employee. The employee has the burden of proof of establishing a prima facie showing. They have to make a prima facie case that they were terminated because they had told the CPSC about a problem. The employer has an affirmative defense of showing they would have done the same thing with this employee regardless of the fact that he or she informed the CPSC of a violation.

Also, there is a provision in the bill that if the employee files a frivolous claim and tries to hide behind this whistleblower protection, that employee may have to pay up to a $1,000 penalty throughout the course of the whistleblower process.

We have tried to listen to the concerns of the business community. We are trying to get the proper information to the CPSC to make sure that if there is a problem out there, it is brought to their attention as early as possible. And if an employee wants to do the right thing, with these safeguards built in place, he or she will not be terminated because they are trying to make sure these products are safe in the U.S. marketplace.

Senator STEVENS has walked into the Chamber. So far the news today has been good. We are disposing of matters. We encourage any Senator who wants to come down and speak on their amendment or any Senator who wants a vote to please let us know. So far it has been a very constructive process. I thank all my colleagues for their spirit of cooperation today.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4132

Mr. BROWN. Madam President, I ask unanimous consent to call up amendment No. 4132 and to set it aside.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Hearing no objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. BROWN], for himself and Mr. CASEY, proposes an amendment numbered 4132.

The amendment is as follows:

(Purpose: To authorize the temporary refusal of admission into the customs territory of the United States of consumer products manufactured by companies that have violated consumer product safety rules)

On page 103, after line 12, add the following:

SEC. 40. TEMPORARY REFUSAL OF ADMISSION INTO CUSTOMS TERRITORY OF THE UNITED STATES OF CONSUMER PRODUCTS MANUFACTURED BY COMPANIES THAT HAVE VIOLATED CONSUMER PRODUCT SAFETY RULES.

(a) IN GENERAL.—Section 17 (15 U.S.C. 2066), as amended by section 38(e) of this Act, is amended by adding at the end the following:

''(j) TEMPORARY REFUSAL OF ADMISSION.—

''(1) IN GENERAL.—A consumer product offered for importation into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) may be refused admission into such customs territory until the Commission makes a determination of admissibility under paragraph (2)(A) with respect to such product if—

''(A) such product is manufactured by a manufacturer that has, in the previous 18 months—

''(i) violated a consumer product safety rule; or

''(ii) manufactured a product that has been the subject of an order under section 15(d); or

''(B) is offered for importation into such customs territory by a manufacturer, distributor, shipper, or retailer that has, in the previous 18 months—

''(i) offered for importation into such customs territory a product that was refused under subsection (a) with respect to any of paragraphs (1) through (4); or

''(ii) imported into such customs territory a product that has been the subject of an order under section 15(d).

''(2) DETERMINATION OF ADMISSIBILITY.—

''(A) IN GENERAL.—The Commission makes a determination of admissibility under this subparagraph with respect to a consumer product that has been refused under paragraph (1) if the Commission finds that the consumer product is in compliance with all applicable consumer product safety rules.

''(B) REQUEST FOR DETERMINATION OF ADMISSIBILITY.—

''(i) IN GENERAL.—An interested party may submit a request to the Commission for a determination of admissibility under subparagraph (A) with respect to a consumer product that has been refused under paragraph (1).

''(ii) SUPPORTING EVIDENCE.—A request submitted under clause (i) shall be accompanied by evidence that the consumer product is in compliance with all applicable consumer product safety rules.

''(iii) ACTIONS.—Not later than 90 days after submission of a request under clause (i) with respect to a consumer product, the Commission shall take action on such request. Such action may include—

''(I) making a determination of admissibility under subparagraph (A) with respect to such consumer product; or

''(II) requesting information from the manufacturer, distributor, shipper, or retailer of such consumer product.

''(iv) FAILURE TO ACT.—If the Commission does not take action on a request under clause (iii) with respect to a consumer product on or before the date that is 90 days after the date of the submission of such request under clause (i), a determination of admissibility under subparagraph (A) with respect to such consumer product shall be deemed to have been made by the Commission on the 91st day after the date of such submission.

''(3) COMPLIANCE WITH TRADE AGREEMENTS.—The Commission shall ensure that a refusal to admit into the customs territory of the United States a consumer product under this subsection is done in a manner consistent with bilateral, regional, and multilateral trade agreements and the rights and obligations of the United States.''.

(b) RULEMAKING.—

(1) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall issue a notice of proposed rulemaking with respect to the regulations required by paragraph (2).

(2) REGULATIONS.—Not later than 120 days after the date of the publication of notice under paragraph (1), the Consumer Product Safety Commission shall prescribe regulations to carry out the provisions of the amendment made by subsection (a).

(c) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Consumer Product Safety Commission shall consult with the Secretary of Homeland Security in carrying out the provisions of this section and the amendment made by subsection (a).

Mr. BROWN. 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. PRYOR. 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. PRYOR. Madam President, I ask unanimous consent that Senator WICKER be recognized at 2 p.m. today to speak for up to 20 minutes as in morning business.

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

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

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

Mr. WICKER. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 20 minutes.

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

Under the previous order, the Senator from Mississippi is recognized for

up to 20 minutes for his maiden Senate speech.

REBUILDING THE MISSISSIPPI GULF COAST

Mr. WICKER. Mr. President, as I address the Senate for the first time today, I could not be prouder of the people I represent. From the northeast Mississippi hills and De Soto County suburbs, down through the Delta, and from metro Jackson, across to east central Mississippi, and down through the Piney Woods, from southwest Mississippi to the Gulf of Mexico, my native State of Mississippi is on the move, having added over 50,000 jobs in the past 4 years. But we are also in the process of recovering from the most devastating natural disaster ever to hit North America—Hurricane Katrina. With its nearly 30-foot storm surge, its winds of over 125 miles per hour, and an eye that stretched the entire coastline of Mississippi, Hurricane Katrina reshaped not just the landscape of our Gulf Coast; Katrina reshaped how our public officials must approach every quality of life issue in our State, be it housing, insurance, economic development, education, health care, or public safety.

While there are a number of issues, accomplishments and challenges facing my constituents, today I will speak about the most pressing issue facing my State, the rebuilding and renewal of the Mississippi Gulf Coast and the ongoing need for this Congress to follow through until recovery is indeed a reality.

Steady progress has been made, but great challenges remain that cannot be overcome without a partnership from the Federal Government. Continued Federal resources are needed before our State can truly recover.

For most citizens on the Mississippi Gulf Coast, Katrina is not just one issue; it is virtually every issue.

Every Mississippian remembers what they were doing on August 29, 2005. My wife, Gayle, and I were at home in Tupelo, in the path of a storm that would cause damage 300 miles inland and in the path of thousands of Mississippians and Louisianans fleeing Katrina. Like citizens across the country, we joined our community in opening arenas and churches, preparing Red Cross shelters and organizing gifts of clothing and supplies. Our family and friends were among the foot soldiers in the army of compassion that responded to the devastation in south Mississippi.

Days after Katrina's landfall, Gayle and I had the opportunity to deliver an 18-wheeler full of supplies to Jackson County. What we saw was indescribable to those who had seen the coverage only on television. Tens of thousands of homes obliterated. Businesses and schools destroyed with no trace of previous existence. Bridges wiped away, cutting cities off from one another. And an eerie silence because of the lack of electricity for hundreds of miles.

The Federal Government's response to this disaster has come under an immense amount of criticism, much of which is justified. But it would be irresponsible for us to ignore what went right.

The night of the storm, Coast Guard helicopter crews saved hundreds of my fellow Mississippians.

Katrina generated twice as much debris as any hurricane in history, but it was picked up in half the time.

Our school superintendents, principals, teachers, and parents led the effort to get every one of Mississippi's public schools open as quickly as possible.

Our business community responded, reopening shops, restaurants, and manufacturing plants so our people could get back to work.

And our citizen volunteers and the faith community shined. Mr. President, 500,000 volunteers have offered help to Mississippi since Katrina, and that number continues to climb.

Over the last 2½ years, a lot of progress has been made. South Mississippi is not just recovering; south Mississippi is on its way to building back from the worst natural disaster in American history bigger and better than ever before.

As a Member of the other body, I was glad to be a part of the team that worked to produce much needed appropriations and economic development incentives for our State and others impacted by Hurricane Katrina. Our governor, Haley Barbour, our senior Senator, THAD COCHRAN, my predecessor in this body, Senator Trent Lott, and our entire congressional delegation—Republican and Democrat—were a part of this effort. Katrina was not a partisan storm and in Mississippi, we are working in a bipartisan way to rebuild our communities.

On behalf of a grateful State, I thank the Senate for its support of our rebuilding efforts. In return, Senators—and the taxpayers—deserve a report on our progress.

Housing is still being rebuilt, as evidenced by the shrinking number of families in FEMA-provided temporary housing.

The CDC recently announced that those still living in FEMA trailers could be exposed to formaldehyde levels 40 times the normal level. This news only serves to underscore the fact that while FEMA trailers were necessary immediately following the storm, we must redouble our efforts to move the remaining citizens from them.

The State of Mississippi is deploying ''Mississippi cottages,'' which are real homes built to HUD standards that are free of formaldehyde contamination.

It is imperative that FEMA work with the State of Mississippi to purchase and deploy Mississippi cottages for all individuals along the gulf coast who live in FEMA trailers.

We are also rebuilding our infrastructure. The bridges connecting Bay St. Louis to Pass Christian, and Biloxi to Ocean Springs have been rebuilt, literally and spiritually reconnecting communities to one another.

The GO Zone economic development incentives have been an essential boost to our job creation initiatives. Our State's largest employer, Northrop Grumman, has made great progress and is working to get back to pre-Katrina employment levels; Chevron has announced an expansion of its refinery in Pascagoula; PSL has announced its first plant in North America in Hancock County where they will manufacture steel pipe; and Trinity Yachts has a new facility in Gulfport.

Much has been done, but there is much left to do.

Chairman Donald Powell, the Federal coordinator for the Office of Gulf Coast Rebuilding, acknowledged these challenges last week when he announced he was stepping down. He said it would be ''some time before the area recovered.''

I say this to my colleagues in the Senate: Katrina is not over. There are tall hurdles still to overcome. And there is more the U.S. Congress must do.

The most urgent issue facing the Mississippi Gulf Coast is insurance. If you can't insure it, you can't build it or finance it. The rising cost of insurance cripples the efforts of small businesses, increases the cost of home ownership, and drives rental rates beyond affordability.

This is not just an issue for Mississippi. From Bar Harbor, ME, to Brownsville, TX, millions of Americans live near the coastline, in the path of a future hurricane. For many years, insurance companies have refused to offer insurance protection for water damage caused by hurricanes; this led to the creation of the National Flood Insurance Program, which is up for reauthorization soon. After Katrina, the most important question for a homeowner or a small business person was ''wind or water?''

Wind versus water. That is the debate which still occurs today in courtrooms on the Mississippi Gulf Coast between insurance companies and storm victims.

This debate is what necessitated the multibillion-dollar supplemental appropriations package this body approved after Katrina, and unless Congress changes the law, the wind versus water debate will result in a multibillion-dollar supplemental appropriations package after the next big hurricane—wherever it may land.

Even worse, since Katrina, it is also common practice for insurance companies to not offer wind insurance at a rate that is even close to affordable. This is driving more and more homeowners and business owners into a State-sponsored wind pool, which acts as an insurer of last resort. But this is not a reasonable long-term solution, because too much risk is being placed in a too small of a pool.

The best solution available is to allow homeowners to purchase wind

and flood insurance coverage in the same policy.

This will not only help the storm victims so they can know their hurricane damage will be covered; it also will protect the U.S. taxpayer. The American people are the most generous in the world, and their elected representatives will continue to respond to natural disasters, whether it is a hurricane on the east coast or an earthquake in California, with supplemental disaster appropriations packages. But the size of these packages will be smaller if more people have insurance.

As a Member of the House, I voted for Congressman GENE TAYLOR's multiperil insurance legislation when it passed last September. I am committed to achieving the same success here in the Senate.

Another key initiative we must focus on in order for the gulf coast to continue rebuilding is the extension of tax provisions included in the GO Zone legislation. I mentioned earlier the boost this legislation has given the gulf coast, and I want to ensure this body that it has provided much-needed help.

However, in order for the legislation to be fully utilized by families and small businesses who have not yet been able to begin rebuilding, these important tax provisions should be extended.

Other issues remain, especially at Katrina's ''Ground Zero.'' Hancock County, and the cities of Pass Christian and Long Beach in Harrison County, bore a direct hit from Katrina, and their issues are not the same as the rest of the gulf coast.

With their property tax base decimated, basic government operations are still run out of trailers. Hancock County has no jail, an essential part of maintaining public safety. Mayors, supervisors, and other community leaders now are forced to completely rethink their economic development and planning strategies because the new FEMA flood plain maps will make rebuilding next-to-impossible in many areas.

Ground Zero needs extra help. In many cases, Congress has provided the necessary resources, but the Federal Government's current rules and regulations do not recognize the reality on the ground. The Federal Government needs to be flexible, and if it can't or won't, Congress needs to step in. At some point, as Chairman Powell stated, ''commonsense has to come to the fore.''

My Senate office has been in existence for only a few weeks, but we are already at work trying to help constituents wade through the bureaucratic process to receive the permits from Federal agencies, such as the U.S. Army Corps of Engineers, that are necessary to rebuild.

This is, obviously, not the first time the Federal Government redtape has needlessly caused real problems, and it will not be the last. But that does not make the problems any easier, particularly when people are hurting. For example, affordable housing initiatives developed by the State are being delayed needlessly because Congress has refused to give the U.S. Department of Housing and Urban Development the authority to waive environmental regulations which require an archaeological dig for remnants on each piece of property, property that already had a home on it before Katrina. Such redtape does not make sense.

In this case and in others like it, Congress and the Federal Government's bureaucracy needs to get out of the way so the States, cities, and counties can use the resources already provided to them. But there are other cases where this Congress needs to provide more resources.

Off the coast of Mississippi lies a chain of barrier islands and coastal wetlands which provide a first line of defense against the storm surge of a hurricane. According to the Corps of Engineers, a storm surge is reduced by 1 foot for every 1 acre of wetland. Without the barrier islands, the storm surges would be 8 to 12 feet high.

Hurricanes such as Katrina and Camille before it, two of the most powerful storms ever recorded, have caused significant damage to Mississippi's natural defense systems. If they are not restored, this problem will only get worse, putting more people and property at risk during future storms.

Gulf coast ecosystems are also threatened. The barrier islands and wetlands provide a natural regulator of salinity levels, which is vital for shellfish and other marine life to have a vibrant habitat.

I do not hail from Louisiana, but I strongly support the restoration of levees in New Orleans. These levees are necessary for the restoration and protection of a great American city. Our barrier islands provide the same purpose to the Mississippi gulf coast as the levees do to New Orleans.

In the coming months, I look forward to working with my colleagues in the gulf region to provide the funding necessary to restore the natural habitats that protect not just the environment and its ecosystems but also protect our citizens who are in harm's way.

Through the leadership of many in this body today, the Congress has stepped up to the plate and time and again provided assistance to the people of the Gulf States after Katrina. It is appreciated, but I must simply remind my fellow Senators that we are not finished. We should celebrate our progress but keep our eyes on the work that needs to be done. When there is a clear and compelling case for additional Federal involvement, I will be persistent in making that case. The people of the Mississippi gulf coast, who have demonstrated such untiring resilience and strength over the last 2½ years, deserve no less.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I wish to take a moment to commend our new Senator from Mississippi for what we typically refer to around here as his maiden speech. He obviously has chosen a topic that is at the top of the list of concerns for the people of Mississippi and addressed them very effectively.

I also wish to say not only to the Senator from Mississippi but to his constituents, what a spectacular start he has gotten off to in the Senate. He is an active and an aggressive member of both the Armed Services Committee, which is important to his State, and the Commerce Committee as well.

I commend him for that outstanding speech today and thank him for all he is doing for the people of Mississippi.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I join the leader in commending my colleague for an excellent statement about the challenges faced by our State of Mississippi in the aftermath of Hurricane Katrina. There could be no greater need of any State than to confront the realities of the challenge we face to rebuild and recover fully from Hurricane Katrina.

We have had a tremendous amount of support from the Federal level. We have the approval of appropriations bills, seeing the leaders of both Houses—the House and the Senate—coming together, joining with the administration in crafting a recovery package of changes in laws, as well as the appropriation of funds that will help speed the recovery. But it has been very frustrating to see how long it has taken to truly get back on the road to foreseeable recovery. Many of the communities are still without Federal, State, and county services that existed before the hurricane.

Although every effort is being made to overcome these challenges, the path ahead is filled with many new challenges. I am very confident that the presence in the Senate of my friend ROGER WICKER will help us identify and succeed in meeting this enormous challenge. I congratulate him on his remarks and thank him for his strong effort in meeting this very important challenge our State faces.

Mr. MCCONNELL. 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. PRYOR. 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. PRYOR. Mr. President, I join my colleagues in welcoming officially the new Senator from Mississippi and thank him for his service in the House and his service in the Senate. Certainly, it was great to hear his maiden speech today.

One of the aspects that is so true about the Senate is every Senator can

make a difference. That is one of the challenges I think all 100 of us carry with us every day—to go out there and make a positive difference for this country and for the world.

I welcome Senator WICKER to the Senate.

Mr. President, I will give a very brief status report on the consumer product safety bill. Right now, we have been working through amendments all day. There have been several agreements. The managers' package is growing, which is good news. We are hopeful that we can have just a few amendments to be voted on and then have final passage. We do not have an agreement on that, but we are trying to reach an agreement right now. I wanted to alert Senators and their staffs that we would love to wrap this up, again, this afternoon. If we have to go into this evening, we can. But the sense right now on the floor, in talking with everyone who has been on the floor, Senators and staff who have been working through amendments, working through issues, we are still hopeful we can finish this bill this afternoon. We hope that is good news for Senators.

We, once again, encourage any Senator who wants to come to the Chamber and speak on this bill to try to come down as soon as they can because hopefully we will get to final passage this afternoon at some point.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska.) Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I want to again inform Senate colleagues and staff on the Hill that we are making great progress. I know we have been in a quorum call for some time, but the truth is, we have been making very steady and solid progress.

We are hoping to get this bill to final passage this afternoon. There are a couple of amendments that we are still working through. We would love to reach an agreement with both sides to have a specific time to start a series of votes to get us out of here this afternoon. Again, for all of the staff and the Senators who are watching, now is the time, if you want to make one last pitch for either an amendment or a change in something, because everybody has been working very hard today and this week to get this done.

So we do not have anything locked in, but certainly we would love to start this last series of votes sooner rather than later. I have talked with several Senators and they have worked very hard. They would love to see us wrap this up as quickly as possible. I think we are very close to doing that.

Again, we are talking cloakroom to cloakroom, manager to manager, staff to staff, trying to get the last details worked out. So we are very hopeful we will have good news very shortly. We are very proud of the work that all of the Senators and staff have done to get us to this point on this important piece of legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4130

Ms. KLOBUCHAR. Mr. Chairman, I rise today in support of the Nelson-Snowe-Klobuchar amendment to S. 2636. I commend the good work of my colleague, Senator NELSON, that we have done on the bill as a whole, with Senator PRYOR's leadership. The three of us as members of the Consumer Subcommittee have worked together to make this as strong a bill as possible. I especially applaud Senator NELSON's efforts to make sure the strong third party testing requirements were included in this bill.

As we have seen over and over again in the past year with the issuance of each new recall, independent testing plays a critical role in ensuring that the products on our shores and in our stores are safe. So I commend Senator NELSON for his good work in making sure independent third party testing will now be done using a more systematic approach under the bill.

The amendment we are sponsoring that will be brought to the Senate floor today would further strengthen the Consumer Product Safety Commission Reform Act by addressing very real dangers that infants and toddlers face with durable goods. To clarify, when you hear the words ''durable goods,'' what does than mean in a mom's or parent's or kid's life?

Well, durable goods are nursery products that are those products that no new parent can go without: cribs, car seats and strollers and high chairs, the most basic of all children's products.

Unfortunately, what we have seen in recent years, in this past year in particular, is that these nursery products are leading to the most severe and the greatest number of product-related injuries for children.

In 2007, 48 percent, almost half, of nursery product recalls were initiated because the use of the product has led to some type of child injury or even death.

According to the Consumer Product Safety Commission, an estimated 64,000 children, 64,000 children under the age of 5 were treated in emergency rooms across the country for injuries associated with nursery products in 2003, at a cost of $2.5 billion. That is $2.5 billion.

This figure has certainly risen over the last 5 years. And even more tragically, more than 50 children under the age of 5 have died since that time in incidents associated with nursery products.

I would like to take a moment and talk about one of the too many children who died tragically as a result of a defective crib, and that is 16-month-old Daniel Keysar. In May of 1998, little Danny was strangled to death in his licensed childcare facility when a Playskool Travel-Lite portable crib collapsed trapping his neck in the V of the rail.

Danny was the fifth child to die while sleeping in the Playskool Travel-Lite crib from 1990 to 1997. More than 1.5 million portable cribs with similar dangerous designs were manufactured. A total of 16 children have been killed by this type of crib. This is just a crib, a crib that you would put up in your house, and that many children have died in. And while these cribs were all eventually recalled, in 2007, we saw the largest recall of cribs in our Nation's history. You can see right here this is one of the more than 1 million cribs that were recalled last year; 1 million cribs recalled in 2007.

But these cribs never should have been brought to the market in the first place. It is not just cribs. Last year, when recalling the Evenflo Embrace infant car seat, the Consumer Product Safety Commission revealed that 160 infants were injured as a result of using this product. Many of these injuries were quite severe, ranging from skull fractures to concussions to lacerations.

Let me be clear: 160 babies were seriously hurt by a product that their parents bought for the sole intention of keeping them safe. That is why you get a car seat. I still remember. My daughter is 12, and I would never admit she had ever been in a car seat, but we all buy car seats to keep our kids safe. Just to think, for 160 households, it was the car seat that injured their baby. It is clear we must strengthen our safety standards and make them stronger for nursery products. Right now the safety of the Nation's nursery products depends on a system of voluntary standards. And while voluntary standards are a good first step, we have seen over and over again that they are not enough. The amendment Senators NELSON, SNOWE, and I are offering would direct the CPSC to evaluate and revamp these safety standards and give them the force of law. It is telling the CPSC, you have to do your job. Revamp these standards and make them better.

This amendment directs the CPSC to work with consumer groups, child product manufacturers and engineers and safety experts to examine and assess the effectiveness of our current system of voluntary safety standards for nursery products. We had voluntary guidelines for lead and look where that got us. The amendment then directs the CPSC to issue regulations aimed at reducing injuries and deaths from these kinds of nursery products.

This amendment is not controversial. Strengthening safety standards for nursery products is a winning proposition for everyone. This language was included in the House-passed bill by an overwhelming majority. It is my understanding that this amendment will be adopted in the manager's package. I thank Senators PRYOR and STEVENS for accepting this amendment.

I thank the Senate for their support for the amendment I offered with Senator MENENDEZ to ban industry trade travel. Industries the Consumer Product Safety Commission is supposed to be regulating should not be paying for Consumer Product Safety Commission personnel to fly all around the world. I was glad we had bipartisan support for our amendment. We look forward to working on this bill through the day and getting this bill passed. It is incredibly important, the most sweeping consumer product safety reform in 16 years.

Mrs. BOXER. Mr. President, I rise to speak about an amendment to this bill that would ban certain uses of a chemical that poses serious health risks to the lungs of consumers and workers.

In recent years, scientific evidence has mounted that this chemical, called diacetyl, seriously harms the lungs of workers in the factories making microwave popcorn. It causes an awful disease called ''popcorn lung'' in which the tissue inside of the lungs gets clogged with scar tissue and inflammation, leaving the victims struggling to breathe. There is now evidence that it also may pose risks to consumers.

According to the Centers for Disease Control and Prevention, or CDC, the effects of popcorn lung include:

POPCORN LUNG
(Bronchiolitis Obliterans)

The main respiratory symptoms experienced by workers affected by bronchiolitis obliterans include cough (usually without phlegm), wheezing, and worsening shortness of breath on exertion.

The severity of the lung symptoms can range from only a mild cough to severe cough and shortness of breath on exertion.

These symptoms typically do not improve when the worker goes home at the end of the workday or on weekends or vacations.

Usually these symptoms are gradual in onset and progressive, but severe symptoms can occur suddenly.

Some workers may experience fever, night sweats, and weight loss.

Before arriving at a final diagnosis, doctors of affected workers initially thought that the symptoms might be due to asthma, chronic bronchitis, emphysema, pneumonia, or smoking.

Last year, Dr. Cecile Rose, the head of environmental and occupational health sciences at National Jewish Medical and Research Center, one of the most respected lung disease hospitals in the country, wrote to the Consumer Product Safety Commission, the Food and Drug Administration, EPA, and the Occupational Safety and Health Administration regarding the possible risk of popcorn lung for heavy consumers of microwave popcorn as well as for workers.

Dr. Rose informed the agencies that she had a patient ''with significant lung disease whose clinical findings are similar to those described in affected [popcorn lung] workers, but whose only inhalational exposure is as a heavy, daily consumer of butter flavored microwave popcorn.''

Dr. Rose concluded that while we ''cannot be sure'' that heavy inhalation exposure to butter-flavored microwave popcorn caused the patient's popcorn lung, ''we have no other plausible explanation.''

This report by Dr. Rose, a leading lung disease expert, caused a stir in the health community and the public because previously the concern had been focused primarily on the workers, not consumers.

Many of the major manufacturers of microwave popcorn have responded. According to published accounts, four of the leading makers and sellers of microwave popcorn—Con Agra, General Mills, American Pop Corn Company, and Pop Weaver—have said they will stop using diacetyl in their microwave popcorn. Their brands include Jolly Time, Orville Redenbacher, Pop Secret, Act II, and Pop Weaver.

However, there is no enforceable requirement that these or other popcorn makers stop using this chemical in their butter flavoring.

My amendment would simply level the playing field for all microwave popcorn makers, including importers and small manufacturers, by banning the intentional addition of diacetyl to microwave popcorn.

I urge my colleagues to support my amendment, in order to protect Americans from this unnecessary risk. We should be able to regularly enjoy the simple pleasure of watching movies at home and eating a bag of popcorn without having to worry about whether we are harming our lungs.

I ask unanimous consent to have a letter in support of this amendment printed in the RECORD.

MARCH 5, 2008.

Hon. BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: The undersigned consumer organizations write in support of your amendment to the Consumer Product Safety Commission Reform Act bill, S. 2663, to ban the use of the butter-flavoring chemical diacetyl in the production of microwave popcorn.

Our groups believe that both workers and consumers should be protected from harmful and even deadly exposure to diacetyl, a chemical found in thousands of food products containing added flavorings, including microwave butter-flavored popcorn.

Exposure to airborne diacetyl has been linked to the disease bronchiolitis obliterans, also known as ''popcorn lung.'' Problems with diacetyl first surfaced in 2000. Eight years later workers have become ill and died from exposure to this chemical. Last fall, the first case of a consumer contracting ''popcorn lung'' surfaced. This man developed lung disease after making microwave popcorn multiple times every day for a number of years. Further testing indicated that levels of airborne diacetyl in his home were comparable to levels found in microwave popcorn facilities where workers were diagnosed with ''popcorn lung.'' Diacetyl clearly poses a serious health hazard and must be banned.

We understand that several leading manufacturers of microwave popcorn have voluntarily pledged to discontinue the use of diacetyl in their popcorn production. While we are supportive of these actions, it is essential that Congress act more formally to ensure that the comprehensive elimination of the use of this chemical happens immediately. Your amendment would accomplish this by making the ban on diacetyl in all microwave popcorn mandatory for all manufacturers.

Thank you for your support for this important amendment.

Sincerely,

SALLY GREENBERG,
Executive Director, National Consumers League.

EDMUND MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.

RACHEL WEINTRAUB,
Director of Product Safety and Senior Counsel, Consumer Federation of America.

ELLEN BLOOM,
Director, Federal Policy, Consumers Union.

AMI GADHIA,
Policy Counsel, Consumers Union.

Mr. INOUYE. Mr. President, I wish today to support S. 2663, the Consumer Product Safety Commission Reform Act. The leadership of Senators PRYOR and STEVENS in negotiating this bipartisan compromise bill allows the legislation before the Senate today to move an important but beleaguered agency in the right direction. S. 2663 authorizes the appropriate level of resources and provides the new authorities necessary for the agency to do the job it was created to do: protect consumers.

Mr. President, today the CPSC is broken. It is broken from years of neglect coupled with growth in volume and complexity of products and from a dysfunctional commission. Year after year, this agency is subjected to budget cuts and forced attrition of personnel. Today, it has less than half the budget and half the staff it had in its inaugural year of 1973. As a result, the CPSC is no longer properly equipped to carry out its essential mission of monitoring the marketplace and enforcing product safety standards. Making matters even more difficult, the number of products under its jurisdiction has grown exponentially in size and complexity.

The commission is responsible for the safety of more than 15,000 products, including everything from infant cribs to computer components. Most of these products are safe. However, those that are not safe can be deadly. Each year, more than 28,000 Americans die and an additional 33 million are injured by

consumer products. To say these numbers are much too high is an understatement. We must have an effective CPSC, one with increased funding, staff, and authority, to reduce these losses.

This bill addresses the weaknesses of our Nation's product safety system in several ways, but I would like to highlight some of the essential changes. S. 2663 puts the responsibilities of product safety squarely on the Government's shoulders. First, the act authorizes needed resources over a 7-year period to provide the agency the manpower and the technology it needs to police a complex global marketplace. The act would restore the CPSC to a full complement of five commissioners to maintain continuity and to avoid the losses of quorum that have plagued the agency in recent years.

To help buttress the resources needed to monitor the market and keep consumers safe, the act would authorize State attorneys general to bring civil actions to seek injunctive relief for clear violations of statutes enforced by the CPSC. Creating a joint enforcement relationship with the States has proven to be successful in the area of consumer protection, and this collaboration would provide the CPSC a partner to protect American families in a meaningful way.

S. 2663 also would require manufacturers to use independent labs to test children's products and to certify their compliance with mandatory safety standards, including the mandatory toy safety standard established in the act. This new toy standard would provide the CPSC and industry with a fast, flexible way to address emerging hazards. It will serve to protect children from dangers such as strangulation, intestinal perforation, or blockage hazards.

While new authority and regulatory structure is needed for this agency, providing accurate and up-to-date information about product hazards to Americans would allow consumers to help themselves and make better decisions about the products they buy. In order to help consumers, S. 2663 would create a database of information from nonindustry sources, such as hospitals, childcare providers, public safety agencies, as well as consumer reports about product hazards collected by the CPSC itself. This database would provide consumers with potentially lifesaving information, in an organized fashion, which would better equip them to assess product safety risks and hazards.

Finally, this legislation would allow the CPSC to share product information with governments around the world. Since our economy is global, faulty products do not just end up in our homes but in homes around the world. By reaching out to and coordinating with other countries, the ability of the CPSC to interdict and keep unsafe products off of store shelves would be improved.

Mr. President, unfortunately, some Members in this Chamber believe that regardless of the dire picture supporters of this bill have painted as it relates to the lack of resources and existing authorities, last year's ''summer of recalls'' proves that the commission is working just fine.

These members may cite statistics showing that in 2007, the agency announced 231 children's product recalls, of which 58 were toys. They will point out that last year set a record for the most toy recalls in a single year. However, anyone who understands the agency and the work that it does will know that in fact, this statistic is further evidence of the need to reform the CPSC.

Specifically, the slow nature of the current recall process left more than 46 million recalled items in the stream of commerce, including millions of toys sitting on store shelves, waiting to be sold to unsuspecting parents. I think it is safe to say that in the opinion of parents, this is a system failure. Unfortunately, the prospects for 2008 look much the same.

The agency has already announced 40 voluntary toy recalls. At this pace, the number of recalls announced this year will surpass all records. However, these recalls are voluntary, not mandatory.

Further, many of the recalls were not the result of a proactive agency; rather, they were the response of a reactive agency to an investigation conducted by members of the press. That is not how Government should work.

S. 2663 reflects a good bipartisan compromise led by Senators PRYOR and STEVENS. Children are dying and suffering grievous injuries because of unsafe products. This bipartisan bill is a good step forward in our effort to keep harmful products off of store shelves.

For America's families, and especially for America's children, I urge my colleagues to support this meaningful consumer safety legislation.

Mr. LEVIN. Mr. President, I am pleased to support S. 2662, the Consumer Product Safety Commission Reform Act. The reforms that this bill makes to the Consumer Product Safety Commission are long overdue.

S. 2663 takes important steps to shore up a weak and ineffective Consumer Products Safety Commission, CPSC. As a grandfather and consumer, I am appalled at the lack of resources and enforcement authority of the CPSC and its inability to adequately protect our children, our food supply, and the general public from harmful or contaminated products.

We can and should be doing much more to protect the American consumer. As was recently underscored by the alarming number of children's products with high lead content, contaminated pet food, and defective imported tires, there are a lot of cracks in the systems that were supposed to be watching out for consumers.

We need to know our children's and grandchildren's toys are safe. We need to know that the food we import is not tainted with harmful chemicals. We need to know the products we buy will not harm us or our children. I believe it is the Government's basic responsibility to protect the public.

Those who work for the companies that make these products may often be in a position to detect and prevent serious problems or injuries before they occur. I am pleased that this bill includes important protections for corporate whistleblowers that will encourage employees to come forward about violations and defective products without the fear of retaliation by their employer.

Many of the defective and contaminated products are imported. Even with its current limited resources and reach, CPSC recalled approximately 150 tainted products from China in 2007, including tires, toys, baby cribs, candles, bicycles, remote controls, hair dryers, and lamps. Imagine how many more contaminated or defective products are slipping through the cracks and reaching American consumers without being detected.

We are being deluged by cheap imports from China and elsewhere. We should at least be making sure the products we import are not contaminated or dangerous. In this vein, last summer I wrote to President Bush requesting that his administration investigate dangerous products that have been imported from China. We need to strengthen our agencies and laws so that products that do not meet our health and safety standards are stopped at our borders. To do this we need to give the CPSC the necessary tools and resources, including more manpower to adequately inspect imports.

Like most of my colleagues, I was shocked by CPSC Acting Chair Nancy Nord's claims that no additional funding was needed for her agency. To me this claim implied there was no desire by this administration to do more to protect American consumers. That is absurd given the recent and alarming incidents of contaminated products reaching consumers. The Senate's consideration of S. 2663 and the House passage of a similar bill is proof that Congress strongly disagrees with this point of view and will make the legislative changes needed to give the CPSC the necessary tools to improve on its past poor performance and reassure consumers that there will be more oversight of the marketplace in the future.

This bill will increase overall funding for the CPSC by 50 percent over 7 years, increase CPSC staffing to at least 500 employees over the next 5 years, streamline product safety rulemaking procedures, ban lead in children's products and require certification and labeling, increase inspection of imported products so we are not allowing recalled or banned products to cross our borders, increase penalties for violating our product safety laws, strengthen and improve recall procedures, and ban the sale of recalled products.

The legislation has the support of the following, among others: Thomas H. Moore, Consumer Product Safety Commissioner; Alliance for Patient Safety; American Academy of Pediatrics; American Association of Law Libraries; American Association of University Professors, AZ Conference; American Library Association; Circumpolar Conservation Union; Coalition for Civil Rights and Democratic Liberties; Consumers Union; Consumer Federation of America; Doctors for Open Government; DoorTech Industries, Inc;. Ethics in Government Group, EGG; Federation of American Scientists; Federal Employees Against Discrimination; Focus On Indiana; Fund for Constitutional Government; Georgians for Open Government; Government Accountability Project; HALT, Inc.—An Organization of Americans for Legal Reform; Health Integrity Project; Information Trust; Integrity International; Kids in Danger; Liberty Coalition; National Consumers League; National Association of State Fire Marshals; National Employment Lawyers Association; National Judicial Conduct and Disability Law Project, Inc.; National Research Center for Women & Families; National Whistleblower Center; No Fear Coalition; OMB Watch; OpenTheGovernment.org; Parentadvocates.org; Patrick Henry Center; Project on Government Oversight; Public Citizen; Public Employees for Environmental Responsibility; Sustainable Energy and Economy Network; Taxpayers Against Fraud; the 3.5.7 Commission; the New Grady Coalition; the Semmelweis Society International, SSI; the Student Health Integrity Project, SHIP; Truckers Justice Center; Union of Concerned Scientists; U.S. Bill of Rights Foundation; U.S. Public Interest Research Group; and Whistleblowers USA.

I support this bipartisan legislation and I hope that it will quickly become law.

Mr. KOHL. Mr. President, I rise today to talk about the bill to reform the Consumer Product Safety Commission, CPSC. Over the last 7 years, the Bush administration has weakened the CPSC by cutting its budget and staff. In fact, the CPSC has hired just one full-time product tester since 2001. This led to fewer inspectors and more toxic toys and products on store shelves. This is unacceptable.

The CPSC legislation that passed the Senate today provides much needed resources and enforcement powers to the CPSC so that more staff can be hired and oversight can be more vigorous. The CPSC legislation creates a consumer database for recalled products so that consumers can learn about potentially unsafe products without waiting for a public recall that can take months. Further, this bill would create new safeguards on lead in toys and other products and require mandatory independent testing of goods before they go to market.

This bill also prohibits CPSC Commissioners and staff members from accepting trips paid for by industries and lobbyists with business before the Commission. Taken together, CPSC legislation will improve our product safety system and ensure that children's toys, household appliances, and other consumer products that contain lead will never reach consumers.

Ms. SNOWE. Mr. President, I rise today to speak on my amendment to the Consumer Products Safety Commission, CPSC, bill that the full Senate is now debating. I applaud the steadfast efforts and leadership of Chairman INOUYE, Ranking Member STEVENS, and Senator PRYOR in moving this critically vital bill to the Senate floor and to passage—and for including my amendment by unanimous consent as part of this bill.

My amendment would perfect this bipartisan measure by ensuring that the CPSC fully considers potential small business impacts when it establishes through a rulemaking, as it is required to do under the bill, criteria for imposition of penalties. As ranking member of the Senate Committee on Small Business and Entrepreneurship, I have long worked to ensure that the Federal Government takes measures and precautions to protect the interests and viability of small businesses, while at the same time rigorously enforcing our Nation's consumer protection laws.

Under the bill that we are now considering, the maximum civil penalties for violations would be increased from $8,000 to $250,000 for individual violations; and up to $20 million for aggregate violations. Within 1 year after enactment, the Commission would establish, through a Federal rulemaking, the criteria for imposition of civil penalties.

Mr. President, my amendment would make clear that the Commission consider the size of a small business when establishing a penalty criteria through a rulemaking. My staff has discussed this issue with the Commission, which has raised an issue with Section 16(c)—''Civil Penalty Criteria''—of the bill. This section does not specifically reference the size of a small business as a criteria.

The Commission's attorneys suggested that a minor change—adding the word ''additional''—would resolve ambiguity to ensure that the Commission considers the size of a small business—as it is required to do under section 20 of the Consumer Product Safety Act. This would help to ensure that this new penalty provision remains consistent in how the Commission factors in small business size in proportion to penalties.

My amendment would also ensure that the Commission appropriately considers, during its rulemaking, ''how to mitigate undue adverse economic impacts on small businesses.'' I firmly believe that requiring the Commission to consider undue adverse economic impacts when establishing the new penalty criteria, would help to ensure that small businesses can remain viable while at the same time increasing penalties for violations under the act—a win-win.

In closing, my amendment would help to ensure the continued viability and competitiveness of our Nation's small businesses—while protecting the strong regulatory enforcement included in this bill.

Mr. President, I request unanimous consent that the text of my remarks be included in the CONGRESSIONAL RECORD.

Thank you, Mr. President. I yield the floor.

Mr. SCHUMER. Mr. President, I am proud to be a cosponsor of S. 2663, the CPSC Reform Act, and I would like to thank Chairman INOUYE and Vice Chairman STEVENS for their leadership on this important and groundbreaking bill. I also want to thank Senator PRYOR for his extraordinary work in crafting this outstanding bill which has strong bipartisan support.

The CPSC Reform Act will provide the Consumer Product Safety Commission with the authority and resources it needs to be more effective in its critical mission to protect consumers. Quite frankly, the current product safety system is broken, and the CPSC is in desperate need of reform. Too many unsafe goods are reaching the shores of the United States. Too many dangerous products are finding their way into the hands of American consumers, and all too often, young children.

It seems that over the past year, nearly every week we have had to frantically pull Chinese and other imported goods off store shelves as we learn of each new tainted product. The bottom line is that our safeguards are failing and we need to act fast to fix them. We worry about our kids when they are in class, when they are walking or driving home alone, even when they surfing the Internet. We should not have to worry that the toys they play with might be hazardous to their health or even fatal. From children's costume jewelry to toy trains, these recalls call in to question our ability to keep dangerous toys out of the hands of our kids.

For years, CPSC has been starved of funding and plagued by budget and personnel cuts. As a result, the effectiveness of the CPSC has been severely undermined and the agency, despite its efforts, has been unable to keep up with globalization of the marketplace. This bill will reverse those trends and give the CPSC the budget and the tools it desperately needs to again become an effective force for consumer protection. These important tools include $40 million to upgrade CPSC's laboratories and 50 additional personnel to inspect goods at U.S. ports and overseas product facilities. The bill will also give consumers better access to vital safety information by creating a searchable database that has information including reports of injuries, illness, and death related to the use of consumer products.

It is essential that we take strong steps to protect all consumers, but especially our children. This bipartisan bill takes a tough approach to cracking down tainted products and seeks to restore America's faith in the mechanisms we have in place to safeguard our kids against these dangerous products. First, the bill prohibits importing untested children's products. Second, it also requires tracking labels for children's products that will help parents tie safety recalls and alerts to their prior purchases. Third, the bill prohibits the sale of recalled products so that as parents and consumers, we don't continue to see these hazardous products on the shelves. Finally, this legislation bans all children's products containing lead.

The CPSC must do a better job of getting hazardous products off the shelves and out of consumers' reach, and these provisions will give the CPSC the tools to do just that. It is essential that manufacturers, importers, and retailers do their part to ensure product safety and keep tainted products out the market. This bill seeks to hold companies accountable by increasing criminal and civil penalties for those who knowingly and willingly violate product safety laws. It also gives State attorneys general the power to crack down on companies by enforcing Federal safety standards and provides them with the authority to get dangerous products off the shelf. Furthermore, the bill gives protection to whistleblowers so that employees who identify dangerous products along the supply chain can come forward with vital health and safety information without fear of reprisal.

As you can see, these are important commonsense solutions that will keep consumers informed and safe from dangerous products. Passage of this bill is vital if we hope to rebuild, reform, and revitalize the CPSC and restore America's faith in the agency's ability to protect consumers and their children from unsafe products. I urge my colleagues to support this critical legislation that restores the CPSC and gives it the much needed authority to put an end to the alarming trend in tainted products faced by this country in recent months.

PROPOSITION 65

Mrs. BOXER. Mr. President, over 20 years ago, the people of California enacted a landmark ballot measure known as proposition 65. Proposition 65 prohibits exposures to chemicals like lead that are known to cause cancer or reproductive harm without a clear and reasonable warning. Proposition 65 enforcement actions by the State and by private attorney generals have played a crucial role in reducing childhood exposure to harmful chemicals, such as lead. For example, the California attorney general recently brought a proposition 65 case arising from unsafe levels of lead in children's toys. It is my understanding that nothing in this bill is intended to preempt or otherwise diminish the protections of proposition 65. I would like to ask the distinguished Senator from Arkansas and lead author of this legislation: is my understanding correct?

Mr. PRYOR. Yes, it is. Compliance with proposition 65's warning requirements would only complement the CPSC Reform Act.

Mrs. BOXER. Is it the intent of this bill or the rules promulgated there under by the Consumer Product Safety Commission to preempt proposition 65?

Mr. PRYOR. No. First, the CPSC Reform Act bans lead in children's products beyond trace amounts. Under section 22, any children's product that contains lead ''shall be treated as a banned hazardous substance under the Federal Hazardous Substances Act.'' While the Commission is directed to examine whether it is possible to lower the trace levels permitted under the bill, no action is required with respect to labeling requirements that might inadvertently trigger a preemption of proposition 65. It is the intent of the CPSC Reform Act to get rid of lead from children's products, not to inadvertently preempt a consumer-friendly and valuable law such as proposition 65.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I ask unanimous consent that Senator KERRY be added as a cosponsor to the Feinstein amendment No. 4104.

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

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. MENENDEZ. Madam President, I rise to support the legislation we are debating. I congratulate the distinguished Senator from Arkansas who has led this effort and has done so with such aplomb on a bill that will, I hope, pass on a strong bipartisan vote later today because it is a bill America needs. Americans don't need to be convinced that we need stronger protections to keep dangerous products from entering our homes.

Abigail Hartung, a 13-month old girl from New Jersey whose crib collapsed on her one night, doesn't need to be convinced. Her parents who awoke to the terrifying sound of a child in screaming pain do not need to be convinced either.

I know even many of my colleagues who do not like Government intervention on the other side of the aisle do not need to be convinced the meager measures we have in place to protect consumers from hazardous products are not enough.

That is why I rise today in strong support of the Consumer Product Safety Commission Reform Act. It is long past time for us to act.

Madam President, 2007 was a disastrous year for product safety. There was a record number of safety recalls. Over 400 different products had to be pulled, and more than half—more than half—of those 400 products were for children. That adds up to an astonishing number of dangerous items—almost 46 million items.

Now, we saw toxic toys shipped in from China laced with lead paint that could cause permanent neurological damage or death. We saw car seats dump out the kids who sat in them. We saw beads that contained a chemical that could put children into a coma if swallowed.

Too often, the recalls were too late. Last year, recalled products killed 6 children, they injured 657 more, and they destroyed the confidence of the entire Nation.

So the question is, can they trust the Consumer Product Safety Commission as it exists today? I think the answer to that is no.

Issues of product safety are not going away by themselves. In January, there was a recall of toys with magnets that could cause fatal intestinal blockages if swallowed. Last month, we had a scare about children's sketchbooks coated with potentially fatal—fatal—levels of lead paint.

When dangerous products keep getting introduced, when 46 million items so unsafe that they have to be recalled are allowed to reach consumers' hands in 1 year, we have to believe those are not 46 million coincidences. We have to think there is at least one Government watchdog agency that is falling far short of what it needs to be. That agency is the Consumer Product Safety Commission.

Now, sadly, the Consumer Product Safety Commission is nothing more than a hollow shell at this point. We talked about those 46 million unsafe products recalled last year. If you had a robust commission, as the bill will provide for, with all of the pertinent powers and resources, then we should not see that reality.

Years of budget and personnel cuts have left it badly equipped for the job we are counting on it to do. Poor leadership and unethical behavior have undermined what little power and authority the Commission has.

No watchdog can effectively regulate if they cozy up to the industry they are supposed to be regulating. That is why I am proud the Senate agreed to the amendment the Presiding Officer, Senator KLOBUCHAR, and I offered to prohibit members of the Consumer Product Safety Commission from accepting travel paid for the industries they regulate.

It seemed to us—and I am so glad an overwhelming vote of the Senate said the same—how is it that you can accept such travel paid for by the very

entities you seek to regulate, who, in that travel, ultimately are trying to influence you so that those regulations are not as prescriptive and as onerous as they need to be in pursuit of the interests of consumers?

It was a great first step. Now we have to finish the job.

It is time to reform the Consumer Product Safety Commission so it can strongly enforce safety standards, prevent deadly imports from entering our Nation's borders, and restore confidence to parents that it is OK to do something as simple as give a toy to their child.

Again, let me thank my distinguished colleague, Senator PRYOR, for his tremendous leadership on this issue. And right by his side has been Chairman INOUYE and Ranking Member STEVENS, along with Senator COLLINS, and many Senators from both sides of the aisle.

The effort to keep consumers safe should be a truly bipartisan effort. I am confident the bill we have before us is going to win some very broad-based support.

Here is what the bill finally does.

First, it gives the Consumer Product Safety Commission the resources it needs to do its job, boosting its budget, and expanding its staff.

Second, when it has the staff and resources it needs, the Commission is going to have a greater presence at our Nation's ports. For the Senator from New Jersey, which has the Port of Elizabeth in Newark, the megaport of the east coast that sees the incredible amount, the billions of tons that come through from all over the world, I understand very clearly how this element is so critically important—to stop deadly imports from coming in and enforce a comprehensive ban of lead in children's products.

Children's products will have to be independently tested and verified to be safe. Toys will have tracking labels, so if there is a problem, we will know who is responsible.

The bill gets tough on violators. Not only does it ban the sale of recalled products, it makes sure companies face the possibility of real financial consequences if they break the law, so they don't simply see the fines for hawking dangerous products to our families as another cost of doing business.

Right now, I am sure there are those companies that say: Well, that is fine. I will just bring this in because I am going to make more than the consequence of a fine. That is fundamentally wrong.

The bill protects employees who report violations of safety standards so people will not be afraid to come forward with information that could save lives.

Not only will employees be better able to speak out, consumers will be better able to speak out and listen to each other. For the first time, the bill would create an online product safety database, so we do not have to wait until tragedy strikes close to home to hear about safety concerns other consumers have already discovered.

So if I know about that crib, and I go on line, and I put it on, and now another family looks and says: Let me figure this out, let me find out if this is the type of product that has any problems, and they see that information, it is a warning and preventive measure that is powerful because information is powerful. This bill will give that information to consumers in our country.

Those are just a few of the specifics. But the bottom line is, this bill is about keeping our children safe and bringing us all a little peace of mind.

When a parent puts a toy in the hands of a child, it is a beautiful moment—a moment we should never allow to be undermined by fear. If we take action today, if we sign this pledge, to look out for American families as conscientiously as we should, then we will be helping to see to it that nothing takes the joy of that moment away.

So I urge strong support of the measure.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Madam President, I come to the floor this afternoon to first speak to my support for the Consumer Product Safety Commission bill which is before us. I want to also honor my colleague from Arkansas, who has led these efforts on behalf of the Commerce Committee in the Senate. He understands from his background as the attorney general for the State of Arkansas that it is important to protect consumers.

Attorneys general are known across the country for their role in serving as protectors of the people. This legislation is in fact a ''protector of the people'' because what it will do is it will allow us to deal with those unsafe products that are finding their way into the homes of Americans, into the hands of children, and into the hands of all Americans in a way sometimes today which is unsafe.

There are many stories that have been untold about young people who have been victimized by a lack of oversight with respect to all these imports that are coming in at levels we have never seen before, from places such as China and other places around the world, which are causing significant damage to young people.

Last year alone, 27,000 Americans died because of some illness that was related to an unsafe product. That is 27,000 Americans who lost their lives. Yet when we look at CPSC today, the Commission which is in charge of enforcing consumer protection standards and measures to protect Americans, there is one inspector on the job to get this all done on behalf of 300 million Americans.

I think that is woefully inadequate. It is an inadequacy which this Senate and this Congress has a responsibility to address.

In my own home State of Colorado, there was a young man by the name of Tegan Leisy. Tegan is only 4 years old. But because of a defective toy that was brought into his household, he ended up going to the doctor with a pain in his stomach. Three days later, it was discovered there were six magnets that had come off this toy which had got into his intestines and had created a problem, which required his intestines to be torn apart in order for the young man to undergo the operation.

So we need to make sure we have the right consumer protection standards. We need to make sure we have the ability to enforce those standards. The CPSC legislation which is before us will allow us to do that. So I strongly urge my colleagues to vote in support of this legislation when, hopefully, we get to it in the next several minutes. It is important for us as Americans. It is imperative for us to make sure we are protecting the consumers of our country.

Madam President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

HOUSING CRISIS

Mr. SALAZAR. Madam President, I come to the floor today to address the issue of our economy and the need for us in Washington, DC, to understand the pain that Americans are feeling across the board, especially when it comes to the issue of housing.

Last week, Majority Leader REID brought to the Senate floor the 2008 Foreclosure Prevention Act, which was filibustered on this floor. It should not have been because the pain that people are feeling across America with respect to this housing crisis is a pain that goes across all of America. It is not a Democrat or a Republican or an Independent issue. The housing crisis is a problem which is creating pain for a lot of people in our country.

I want to demonstrate how, in my view, this is an issue that ought to continue to be at the top of the totem poll for us to consider in the Senate and for the Congress to act upon and for the President and the executive branch to show leadership in addressing this problem.

This is a chart I have in the Chamber which we have brought to the Senate floor on other occasions, which indicates what Moody's sees as the possible future outcome with respect to what is happening with this unprecedented housing downturn. This unprecedented housing downturn is the worst the United States of America has seen since the Great Depression.

We look at the first graph on this chart, which shows that housing prices are expected to decline by almost 16 percent. That amount of decline is not just related to those homes that are going into foreclosure. They are related to homes in neighborhoods where

we are seeing this foreclosure crisis spread across the country. It is kind of like a disease; it hits one home, and all of a sudden it creates a major downturn in terms of the value of homes throughout that neighborhood, throughout that block, and throughout those communities.

Now, when we talk about this as being a foreclosure issue, it is an issue that creates pain for those families who are being forced out of their homes because they cannot afford to make mortgage payments, but it is a pain that spreads to all of American households, as we see this huge decline in American values.

Another figure, another metric that demonstrates the extent of this problem: When you look at housing starts, housing starts are projected to go down, with a 60-percent decline in housing starts, with no end in sight. The economists cannot even predict how far down we will go in housing starts before we hit the trough of this problem.

When you compare that to other housing crises which we have had in the past—in the 1980s and the 1990s and last year—we are looking at a problem which is much more extensive, much more prolonged, much deeper than we ever had. So that, from my point of view, at the national level, shows we ought to be doing a lot more to address this issue.

Today, in some of the television and newspaper reports we are seeing around the country—we have one out of CNN where they are reporting that foreclosures have hit an all-time high. The report says over 900,000 households are now in foreclosure, which is up 71 percent from a year ago, according to this news article. There are 900,000 households in foreclosure, up 71 percent from a year ago.

According to this, it also says that it represents over 2 percent of all mortgages. That is a higher rate of mortgages in foreclosure than at any time in the 36-year history of the reports provided by the Mortgage Bankers Association. There is no end in sight to the problem we are seeing. These problems we are seeing with respect to foreclosures hitting an all-time high are especially acute in States such as the States of Florida and California, Nevada, Arizona, Ohio, and Michigan.

In addition to what is happening with these high levels of foreclosures is that we also know we have these declining home values, and we end up seeing a tremendous slip in the amount of home equity people have in their homes. According to the Federal Reserve, homeowners' debt on their houses exceeds their equity for the first time since 1945. For the first time since 1945, homeowners' debt on their houses exceeds their equity.

Now, in my State of Colorado, when I try to bring this back home to the 5 million people whom I represent in the Senate every day, I see the same problem we are seeing all across the country. Between this time in 2008 and next year, 2009, there is a projection from the Center for Responsible Lending that we will see almost 50,000 homes in foreclosure. That is 49,923 homes in foreclosure in the State of Colorado.

As I have said before, it is not just the pain that is felt by people who are losing their homes through foreclosure; it also is the spillover effect that occurs when you have massive foreclosures taking place in my State. The spillover effect means that surrounding home values will decline in 748,000 homes. Almost half the homes in the State of Colorado are going to see a significant decline in their value, because we are going to have about 50,000 homes that are going to go into foreclosure in the years 2007 and 2008. As my colleagues see, when you have that kind of decline in individual home values and you aggregate those home values, there is a huge decline in the aggregate equity people will have in their homes throughout my State of Colorado—some $3.2 billion.

Those are the facts. Those are the facts. There ought to be a wake-up call, it seems to me, not only to the White House but also to the Congress, that we need to move forward with legislation that addresses this issue.

Senator REID came to the floor of the Senate a week, 10 days, ago and set forth the components of the Mortgage Foreclosure Prevention Act, and it was based on the input he had from the chairs of many committees, including Senator LEAHY and Senator BAUCUS and others who have jurisdiction over these issues. I think he put his finger on the right button. He put his finger on the button that is of great concern to the people of America, and that is what is happening with the housing crisis today.

I am hopeful as we move forward to do our work in the Senate, as we are doing it so well today on consumer protection, we are then able soon to pivot back to addressing the housing crisis we face here in America today.

Madam President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. 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. DOMENICI. I ask unanimous consent that I be permitted to speak for 5 minutes as in morning business.

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

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2730 are located in today's RECORD under ''Statements on Introduced bills and Joint Resolutions.'')

Mr. DOMENICI. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Madam President, it has come to my attention that the Senator from Minnesota who sits in the chair right now was very kind in her comments a few minutes ago about one of the additions to this overall consumer products bill that this Senator had a little hand in. We are going to add another, because it is my understanding that we now have it accepted on both sides—it is in the managers' package—another major component of the bill to address the fact—and this is surprising. Last year, we had the largest crib recall in history—almost 1 million baby cribs—because three infant deaths were noted in the recall announcement. After the announcement, even more came to light.

Most of us would be shocked to learn that most of the safety guidelines for durable infant and toddler products are not set by the Consumer Product Safety Commission, but they are only voluntary standards that are set by manufacturers making the products. So, for example, full-sized cribs, half-sized cribs, rattles, and bottles are the only infant and toddler products that have required safety standards.

Well, it is time to change that. Happily, we are going to change that right here with this bill. Through the kind of comments made by the Presiding Officer, and thanks to the chairman of our subcommittee, the Senator from Arkansas, it has been included in the managers' package. What it requires is that all infant and toddler durable products be tested and certified according to mandatory safety standards before they are put out on the market.

I thank Senator OLYMPIA SNOWE of Maine. She has come on as a cosponsor of this amendment. The minute she saw this, she said: I want to be a part of that. Because infant and durable products subject to this requirement include such a wide array of products such as cribs, toddler beds, high chairs, booster chairs, hook-on chairs, bath seats, gates, play yards, stationary activity centers, child carriers, strollers, walkers, swings, bassinets, cradles—all things that when we buy them, we assume they have been checked for safety. Yet it has been up to the manufacturers to check for the safety.

What we are going to do in this bill when it becomes law, it is going to be as a result of safety guidelines that they are going to have to conform to independent testing. Standards would be established through a consensus process involving the Consumer Product Safety Commission, consumer groups, juvenile product manufacturers, and experts in the field. The standards will be promulgated on a rolling basis, with no less than two sets of durable product rules per year. This timeframe would allow for input by all of the interested parties.

It is time to put a stop to these senseless deaths from unsafe products such as unsafe cribs. I am very grateful

that the managers of this legislation have now included this as a part of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Madam President, I know we are in the midst of considering the Consumer Product Safety Commission Reauthorization Act. I thank Senator PRYOR, Senator COLLINS, Senator STEVENS, Senator INOUYE, and so many others for their efforts to bring us to this point. We hope to pass it very soon this afternoon. We are waiting for a little paperwork to be finished.

I am going to use this opportunity to speak as in morning business, and I ask unanimous consent to do so.

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

PEACE IN SUDAN

Mr. DURBIN. Madam President, I rise at this moment to discuss a resolution that the Senate enacted last night by unanimous consent relating to the situation in Darfur. Darfur is a region of Sudan that has been in the newspaper for years because of the genocide that has been sadly unfolding in that part of the world.

I introduced this resolution because I think we have reached a critical point where we must act to stop this genocide in Sudan. I am proud that 40 Senators from both sides agree it is time to say ''no more.''

For more than 4 years, the world has watched this humanitarian crisis unfold—thousands have been murdered, tortured, raped, and displaced. Thousands more are languishing in refugee camps.

Leaders from around the world—including President Bush, Prime Minister Gordon Brown, U.N. Secretary General Ban Ki-moon, former U.N. Secretary General Kofi Annan, former President Jimmy Carter, Bangladesh microfinance champion Muhammed Yunus, and Archbishop Desmond Tutu—have all called for an end to this violence.

Here at home—and it has been gratifying as I traveled around my State to find this—thousands of people, including many high school and college students, are well aware of this genocide. Church leaders and other activists have helped raise awareness of the horrible human suffering that has occurred in Darfur. Senators on both sides of the aisle have spoken out passionately about this crisis.

Last year, the U.N. Security Council voted to deploy a historic peacekeeping mission to Darfur, but that was last year. Under significant international pressure, the Sudanese Government agreed at that time to the deployment. The 26,000-member U.N. African Union peacekeeping force is to be deployed to Darfur to halt the violence and create conditions for peace and a long-term political settlement.

There was speculation about whether we can get the peacekeeping force in place before the end of last year. Sadly, despite all of the promises of last year, the Sudanese Government has done everything they can to stop the deployment of the peacekeeping force. It has brazenly obstructed this full deployment. I will give you an example: Sudan's leaders balked at the deployment of non-African forces. Last month, government forces in Sudan actually fired upon a peacekeeping convoy.

In recent months, the regime has even appointed notorious figures who were knowingly complicit in this genocide in Darfur—including two accused of war crimes—to senior government positions. It is almost a brazen defiance to the rest of the world that Sudan, on one hand, would agree to a peacekeeping force, and on the other hand, shoot at those who come and try to bring peace to their country, and then exalt to the highest levels some of the worst characters in their country.

Many of you have seen the article on the front page of last Sunday's New York Times about the latest devastating violence in Sudan. This isn't yesterday's genocide or yesterday's moral challenge; this challenge goes on today. The article in the New York Times highlighted how the Sudanese Government continues to defy the international community and murder its own people.

I am going to show you an aerial photograph that appeared in the New York Times, which shows the torched Sudanese village of Suleia. Government forces and allied militias burned the village only a few weeks ago. As you can see, there is nothing left. I don't know if a long view of this, for those observing it, will do it justice. But those who have flown over the area say it looks like cigarette burns across the landscape. Each of these so-called cigarette burns reflects a fire that was lit to a small thatch hut where people were living, people who were forced out, some who were captured, tortured, mutilated, and raped, and some who were taken away. Many had to run away, leaving behind this blighted landscape as a stark reminder that despite all of the speeches and resolutions and all of the determination, genocide in Darfur continues, sadly, to this day.

Witnesses said militiamen in that town laid waste to the town, burning huts, pillaging shops, carrying off any loot they could find, and shooting anyone who stood in their way—men, women, or children.

The attack included aerial bombing and Sudanese Government army ground forces. That the Sudanese Government has returned to these brutal coordinated attacks shows its utter contempt for the international community and its own people.

Rich Williamson is an attorney in Chicago who has served in a capacity with the Department of State in previous years and now has taken the place of Andrew Natzios as a special envoy to deal with this situation in Darfur. We certainly have different political views, but when he came to visit my office, we found that we are of the same mind about this particular crisis and the need for an urgent response to the Sudanese Government. We cannot allow Darfur to slide back into the horrible situation that we know took place over the last several years.

While much of the world's attention has been on Darfur, the comprehensive peace agreement between north and south Sudan has also become increasingly at risk. This agreement, signed in 2005 with the strong support of the United States, brought an end to two decades of civil war between north and south Sudan that had left 2 million dead. Yet the government in Khartoum appears to be backing away from its commitment to this agreement and instead preparing once again for war.

Remember what fuels this war: Oil fuels this war—oil sold by the Sudanese to the Chinese, to the Indians, and to a handful of other nationalized oil companies. It is the profit of those sales that is fueling this war that is killing so many innocent people.

We cannot allow the agreement to bring peace in Sudan to be undermined, and we cannot ignore what is happening again in Darfur. It is time to bring an end to this violence and time to set conditions for a long-term peace. I salute Senator BIDEN for leading a resolution last month calling on the President to immediately address any equipment shortcomings with the peacekeeping force. I completely agree with Senator BIDEN. The White House must not allow a modest shortage of equipment to prolong the suffering in Darfur.

Last night, the Senate passed my resolution, with the support of 40 Senators from both sides of the aisle, to call for an immediate halt to this violence and a commitment from both sides to participate in a new round of peace talks.

The resolution also calls upon the Government of Sudan to facilitate the immediate and unfettered deployment of the U.N.-African Union peacekeeping force, including any and all non-African peacekeepers. Sudan and Khartoum gave their agreement last year. They must be held to their promise. It calls upon the diverse rebel movements to set aside their difference and start to work together in order to better represent the people of Darfur. It condemns any action by any party—government or rebel—that undermines or delays the peace process. It calls upon the Government of Sudan to enable humanitarian organizations to have full unfettered access to populations in need, and it calls upon all parties to

the comprehensive peace agreement between north and south Sudan to support and respect all terms of the agreement.

We have allowed the genocide in Darfur to continue for too long. We have allowed a brutal regime to repeatedly obstruct and ignore the international community. It is time, once and for all, to bring an end to this violence in Sudan.

It was my high honor to serve as the successor to Paul Simon, from Illinois, who served in this body for 12 years. He was my closest friend in politics and my mentor, and he helped me along to win this Senate seat and to represent this great State. Paul Simon was at a critical place at that moment in history. He was chairman of the African Subcommittee of the Foreign Relations Committee when the genocide in Rwanda broke out. His ranking Republican member was Jim Jeffords of Vermont. The two of them, when they noted what was happening in Rwanda, decided to step up and try to persuade the Clinton administration to send even a small peacekeeping force in to stop the killing in Rwanda. They reached out directly to the President, as well as the Secretary of State and other officials in the Clinton administration, with no results. The net impact, of course, was we did nothing and 800,000 people died.

I was in Rwanda a year or two ago with Senator BROWNBACK. We stayed at the hotel made famous by the movie ''Hotel Rwanda.'' Don Cheadle played the actor's role of the hero, the manager who stepped up and saved so many innocent lives by making his hotel a refuge. We stayed in that same hotel. I was haunted walking through the hallways and corridors of that almost-empty hotel. I think of the thousands of people who wondered if they were going to be attacked or killed as they waited there, hoping the genocide would end.

At the end of the day, after weeks of bloodshed, over 800,000 people were murdered in the streets of Rwanda—innocent people murdered simply because of their tribal affiliation.

President Clinton did many good things, and he now reflects on his service and said this is one thing he did not do well; he could have done better. He has returned to Africa and visited Rwanda and has said as much. I think it is courageous of him to make that admission and to realize a little effort could have made a difference.

How many speeches have we heard in this Chamber and in this town about Darfur, over and over again. Yet the simple reality is, despite all the speeches by the President, by Senators, by Members of Congress, little or nothing has been done. This genocide has unfolded on our watch. When we are critical of previous generations for not doing enough during the Nazi Holocaust or during some of the other horrendous events that occurred around the world—certainly the Rwanda genocide—we say: How could they have been blind to the reality of what is happening here?

We still cannot be blinded to the reality of what is happening in Darfur, and each of us, either by our church groups or schools or Members of Congress making a statement on the floor or calling in the appropriate ambassadors or calling in the U.N. General Secretary, have to urge them to take action now to bring an end to this genocide.

I wish to make certain this Senate is on record, and I thank all those who helped last night to pass this resolution, but it is not enough, and it will not be enough until we make significant strides to end this bloodshed in Darfur.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, in response to the widely publicized product recalls of last year, the Congress appropriated $80 million for fiscal year 2008 to the Consumer Product Safety Commission, which was an increase of 28 percent. The CPSC was instructed to use the additional money to increase staff, workspace, and information technology resources. In December, the House of Representatives passed the Consumer Product Safety Modernization Act, H.R. 4040, by an overwhelming vote of 407 to 0. It seems like that would have been a reasonable place to start. In fact, during this debate, a number of us voted in favor of Senator DEMINT's amendment to completely substitute the bill we are now considering with the House-passed bill. H.R. 4040 incrementally increases CPSC's budget to $100 million for fiscal year 2011, requires third-party and premarket testing of many children's product for lead and other hazards, and creates new lead standards for products.

However, instead of focusing on product safety, we are now focusing on legislation seeming to simply benefit lawyers. Lawyers who, under this legislation, would have higher civil penalties and new punitive damages to pursue in whistleblower claims.

The bill also allows State attorneys general to file lawsuits and enforce rules against manufacturers, conceivably creating 50 different standards of product safety laws; in other words, lawsuits as far as the eye can see. In fact, this week, a Wall Street Journal editorial referred to the Senate bill as ''Lawyers 'R' Us.''

We have tried to amend this bill and improve the problematic aspects of it, and have achieved very few positive changes. I will miss the vote on final passage. However, since I would be opposing it anyway, it would make no difference in the outcome.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, once again, I hope I have good news. I am hoping the next time I address the Senate on this microphone that we will be asking unanimous consent for votes or a vote, maybe in this case, on final passage.

I again alert Hill staff and Senators that we are very close. I thank all my colleagues. I could go through a long list. While I have just a moment while they are literally wrapping up the final i's and t's on this document, I thank Senator STEVENS for his great leadership in helping shepherd this bill through; Senator INOUYE, of course, for his leadership and what he brings to the table and how he runs his committee is fantastic; Senator COLLINS—I mentioned her yesterday—came in at a critical time and made the bill better; Senator BILL NELSON of Florida who spoke a few moments ago—Senator BILL NELSON in some ways started this whole process. He filed a bill over the summer—June, July, September, I am not quite sure. He filed a bill about third-party testing for toys. We had already been working on a bill. He went ahead and put his bill out there publicly and spurred a lot of interest. And Senator KLOBUCHAR, who is presiding right now, has been working on this bill every step of the way. Senator DURBIN, of course, has made a lot of improvements. Senator SCHUMER has played a vital role in trying to get this bill shaped and ready to go.

I again thank all my colleagues for their hard work. There are too many to go through right now because almost all 100 Senators had some role in this bill and have helped in some way or another. I wished to acknowledge them and hopefully the next time I stand up here, we will be propounding a unanimous consent request on votes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, I understand we are working toward final passage on the bill. I congratulate the Senator from Arkansas for the tremendous job he has done on this legislation. While everybody is putting together the last of this bill, I ask unanimous consent to speak as in morning business for 8 minutes.

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

OUTSOURCING AEROSPACE TECHNOLOGY

Mrs. MURRAY. Madam President, I have come to the floor this afternoon because we have to wake up the country. We are at risk of losing a major part of our aerospace industry to the Europeans forever.

I am outraged the Pentagon is not only going to stand by and let it happen, but it is the Pentagon itself that made the decision in the first place. I am referring, of course, to the Air Force's decision last Friday to award one of the largest military contracts in history to the French company Airbus over the American company Boeing. With this $40 billion contract, our Air Force is beginning the process of rebuilding our aerial refueling tanker

fleet, and the planes we are purchasing are going to be used for the next 30 years or more.

As we learn more about this decision, I have to say I grow more and more astounded at the shortsightedness. As I speak today, Airbus does not actually supply this military capacity to any government. The tanker that the administration wants Airbus to build is unproven. In fact, in my home State of Washington, the machinists call it a paper airplane because it only exists on paper. Right now, the company that supplies those real planes is Boeing, and it has built them for almost 50 years. Up until now, we have in this country controlled our own military refueling capabilities, but with this decision we are now handing Airbus that control.

What makes this so disturbing is we are now outsourcing those jobs to a company that has spent years blatantly working to dismantle our American aerospace companies. Airbus is controlled by foreign governments which follow the social welfare model. Those countries subsidize Airbus, allowing it to sell planes at discounted rates, as long as it creates jobs for European workers.

Our Government is concerned enough about that practice that we have a WTO case pending at the EU, but apparently that does not matter to the administration, because by giving Airbus this contract, we are laying out the welcome mat to walk all over our military production capability. What is the incentive to buy an American tanker if they can get an import at fire-sale prices? With this contract, we are allowing Airbus to take over our military technology, and we are actually paying them to do it.

Airbus has now launched a very slick marketing campaign to try to convince us in Congress and the public that this decision will actually be good for the United States. I spoke on the floor at length yesterday about Airbus's long history of exaggerating the number of jobs it has produced, and it is very interesting that while Airbus has put its supporters on radio and TV over here—and you have heard them—to talk about how excited they are about the number of U.S. jobs this deal is going to create, the news in Europe is about 180 degrees different. Reuters ran an article, the dateline out of Paris yesterday, reporting that Airbus's parent company, EADS, was scrambling over there to clarify that no jobs would be relocated from Europe to the United States. And a British publication earlier this week reported that almost all of the construction work will be done in Europe and then Airbus will fly that plane to the United States for ''finishing.''

If Boeing had won the contract, it would have created 44,000 real United States jobs. By awarding this contract to Airbus, the U.S. Government is leading those jobs to the guillotine.

The most frustrating part about all of this is the Air Force has insisted on defending their decision. Yesterday, according to the Associated Press and other news outlets, one official testified in the House that the Pentagon did not have to consider the location of assembly and manufacturing facilities for those planes; all it needed was a promise by Airbus that it would team with Northrop Grumman and U.S. suppliers. In other words, the Air Force did not consider at all Airbus's record of playing unfair on trade. It did not consider at all the number of jobs we will certainly lose because of this contract. And it did not consider at all what this would mean for our ability to produce our own military technology.

When we are at war across the globe, we should at least consider what it means to give a company owned by a foreign government control over our military technology, and I think we should do it before we finalize this deal.

Airbus and EADS have already given us plenty of reason to worry about how hard they will work to protect our security interests. Let me give a couple of examples. Back in 2005, EADS, the parent company of Airbus, was caught trying to sell military helicopters to Iran. And in 2006, EADS tried to sell transport and patrol planes to Venezuela. That is a circumvention of U.S. law.

Suppose in the future that Europe and the United States have a major disagreement over foreign policy. Do we want France or any other country to have the ability to slow down our military capacity because it does not like our policies?

That is a serious question we should consider. With one contract, we could wipe out 50 years of experience of aerospace in the United States, and once it is gone we are not going to get it back. It is not going to come back. Shouldn't we in Congress at least have a serious debate about this before we give it all away?

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

OBSTRUCTION AND FILIBUSTERS

Mr. CORNYN. Madam President, this morning, our colleague, the distinguished Senator from New York, Mr. SCHUMER, came to talk about the Republican obstruction and filibusters, and I guess I have been around here just a few years now, but I have learned that a charge that is unrebutted is a charge that is believed. In the interest of making sure people understand what the facts are, I would like to address his allegations.

This morning, Senator SCHUMER repeated a myth, which is the allegation that there have been 73 Republican filibusters in the 110th Congress. He said, ''This Republican minority can only obstruct.'' Based on what I believe is a complete distortion of the facts, he said the Republicans ''will be held accountable in November.''

Well, I might note that Senator SCHUMER, in addition to being the distinguished Senator from New York, is also the chairman of the Democratic Senatorial Campaign Committee. And I would hope we would have better things to do than to use the floor of the Senate for partisan attacks when we have so much important work that needs to be done.

He said he wished we could ''go back to the good old days when filibusters were used for issues of major import but not used routinely to block every single piece of legislation.'' Well, it is evidence enough that is an overstatement and I think just a downright exaggeration, in that we are working right now on a bipartisan piece of legislation on the consumer protection issue to make sure American consumers are protected from dangerous products, particularly those that may be imported from abroad. But let me just say what the facts are.

Under the definition that Senator SCHUMER—and the majority leader before him—calls a filibuster, Republicans would be obstructing multiple times in 1 day on many occasions. What they are actually referring to is a record number of times that the majority leader has attempted to prevent debate and block Senators from offering amendments. What happens is he will come to the floor and he will call up a bill and then he will fill the amendment tree, which is a procedural device designed to block the offering of amendments. It basically imposes a ''my way or the highway'' approach to legislating in the Senate. You don't have to be around here very long to know that nothing happens around here unless there is some bipartisan agreement and work, and this bill we are on today is a perfect example of how it can work and how it should work.

Now, I would say that the majority leader is setting a record of his own, moving to cut off debate the first day a bill or resolution reaches the floor more than any other majority leader, whether they be Republican or Democrat. During the first session of the 110th Congress, Senator REID filed cloture—that is, he filed to cut off debate—on the same day a bill or resolution was introduced on nine separate occasions. Before we have had a chance to even talk about it, before anybody has even had a chance to offer amendments, he filed to cut off debate, cut off amendments, nine times. That is three times more than Majority Leaders Frist, Daschle, Lott, Mitchell, or BYRD ever did in the first session of Congress and nine times more than in the first session of the 109th Congress.

Among these 73 Republican filibusters, so-called, Democrats include

times when members of their own party actually filibustered issues of great importance to the American people. Here are a couple of examples.

Senator DODD, from Connecticut, filibustered the Foreign Intelligence Surveillance Act, which allows us the authority to listen to terrorists who are conspiring to harm the American people; the so-called filibuster by our Democratic friends of the McConnell-Stevens troop funding bill last November, which was designed to provide funds to our troops in harm's way, which had been delayed for far too long; and then, of course, the filibuster of Judge Leslie Southwick, a circuit court nominee.

Cloture motions that were filed by Republicans in an effort to avoid obstruction were also included.

Of the more than 73 so-called filibusters, Senate Democrats either voted to ''filibuster'' or voted with Republicans, and the vote was unanimous on five occasions.

Well, let me just say that I know sometimes the nomenclature and the procedures get awfully confusing here on the Senate floor, but the American people clearly would like to see us work together more to solve problems. We are not talking about people giving or taking leave of their principles or their firmly held convictions, but everybody who works here on the Senate floor knows that the only way things happen is by bipartisan cooperation because neither side has the 60 votes to cut off debate and get what they want, as you could if you had a majority in the House of Representatives.

I even read today that the distinguished majority leader compared so-called filibusters to aggravated assaults. He said: It doesn't make any difference whether it is 72 or 65 stabbings, it is still the fact you have been assaulted. Well, I just think that kind of rhetoric is over the top.

What we need to do is, rather than make false charges about obstruction, we need to come together and try to solve problems. I believe that is what the American people want us to do.

So rather than have this unrebutted allegation out there, lest people believe it, because it is being repeated over and over, I think it is important to set the record straight.

I think everybody in this body knows what the deal is; that is, if we are going to solve problems, we are going to have to work together. This CPSC bill is the perfect example. The majority leader did not have to file cloture in order to bring us to conclusion. We sat down and we have negotiated amendments, we have offered amendments, and we have had votes. That is the way this place works.

But I think what is fair is fair, and we need to make sure the story is accurately told. As Senator MCCONNELL said earlier—quoting Daniel Patrick Moynihan—everyone is entitled to their own opinions, but nobody is entitled to their own set of facts.

Facts being what they are, people can then decide what their opinion is. But it is clear this is not a case of obstruction—unless, of course, you are talking about blocking tax increases on the American people, and I will be honest, we did block those tax increases because they are bad for the economy, bad for the American people. But by and large, when we have been met halfway, we have worked together to try to solve problems.

I thank the chair very much for the time that I have had to respond. I think it is important that the full context of the record be clear.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, I happened to pass by, and I am glad I did because my friend, the Senator from Texas, the junior Senator from Texas, is talking about facts that do not exist.

The comment about the 72 stabbings came from me. The fact is, in looking very closely at this, it appears that there were not 72 Republican-led filibusters but only 65. I used an illustration that someone who is charged with a crime—I know the distinguished Presiding Officer was a prosecuting attorney—comes in after having stabbed someone 72 times and says: No, I only did it 65 times.

The American people know what is going on. The American people know what is going on. Every step of the way, we have had to work around procedural obstructions put up by the Republicans—every step of the way. The result of that has taken a lot of time. We have spent 76 days of Senate time on filibusters led by Senate Republicans.

Now, the American people have seen what is going on. They have had more than a year to look and see what is going on. They are going to continue to see. But what I said last Friday, I say today: The Republicans in the Senate should enjoy their time because they are not going to be able to do this after November 4. The American people have seen what they have tried to do and been able to accomplish on many occasions. And we are going to continue to do the best we can in spite of the obstacles put up by the Republicans.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I could not disagree more with the distinguished majority leader. But I will tell you that when it comes to increasing taxes, bigger Government, and higher spending, sure, we are going to stand our ground. We are going to try to block the increased rates on the taxpayers' check and growing the size of Government beyond our capacity to sustain it and failing to meet the obligations we have to pay for things such as Medicare and Social Security and passing those down to our children and grandchildren.

We are on the verge of the debate on the 2009 Federal budget. One of the problems we need to work on together rather than merely accuse each other of malfeasance or misfeasance is $66 trillion in unfunded obligations we are passing on to our children and grandchildren.

I am on the Budget Committee. We had a vote on the budget that will come to the floor next week. There is nothing in the budget—nothing in this budget—that addresses the concerns I know we have on a bipartisan basis about this unsustainable growth of entitlement spending.

So that is the kind of thing we ought to be working on on a bipartisan basis—how can we protect the family's budget rather than wreck the Federal budget. But instead of that, we find there is this back-and-forth for partisan gain.

The majority leader said: Wait until the election day in November. Well, people know what this is about. This is about partisan politics. This is not about trying to solve problems. I hope we can do so.

Again, I compliment the Senator from Arkansas and the Senator from Alaska for addressing on a bipartisan basis consumer safety in this bill. This is a good example of what we ought to be doing, not engaging in partisan sniping that I think does nothing but continue to bring public opinion of Congress to the lowest levels in recent history.

That is why the approval rating of this Congress is at the 18-percentage rate.

So we ought to try to find ways to work together, not engage in this sort of partisan sniping in an effort to gain advantage, electoral advantage, in November. It does not work, for one thing. I think the American people listening to this say: A pox on both your houses. What they want to do is see us work together to solve the problems.

We are going to have a chance on the budget to try to keep spending down, to try to make sure we do not raise taxes and we deal with the obligation we have to meet on unfunded liabilities that will be passed on to our children and grandchildren. That is what I hope we spend our time doing rather than partisan politics.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The majority leader.

Mr. REID. Mr. President, any time we have a President as unpopular as our President, the numbers of all people who serve in Government are down, and Congress is part of that.

I would say that the facts are what they are. We have been obstructed on virtually everything we have tried to do.

These are just a few of the motions to proceed that we have had to waste up to 48 hours on, 2 days for cloture to ripen, 30 hours after that. Those are just a few of them. Now, look how they passed: 90 to 0; 94 to 3; 93 to 3; 89 to 7; 91 to 0; 80 to 0; 80 to 4; 86 to 1. It was only an effort to stall what we do here.

Recommendations of the 9/11 Commission, we had to file a motion to invoke cloture on the motion to go to that. The Intelligence authorization bill, intelligence authorization, to give our intelligence agencies the tools they need to go after all the bad guys around the world, we had to file cloture on the motion to proceed to that. The court security bill, that was important to me because we had some vicious man, at 200 yards, shoot through the judge's window and kill him after he had slit his wife's throat. We need court security. In Georgia, we had a situation there where a number of people were killed. We had to invoke a motion to proceed to that issue. The water resources bill, the chairman of the Environmental and Public Works Committee is here. She worked on a bipartisan basis. That bill had overwhelming support, Democrats and Republicans. We had to file cloture on a motion to proceed to it; Clean Energy Act, 91 to 0; Children's Health Initiative, to reauthorize that, 80 to 0. Just a stall. That is all it was about.

Economic stimulus package, and then housing, a stimulus package on housing, having five simple issues in it. One is transparency on documents that you have to fill out when you buy a home. No. 2, we wanted to make sure the homebuilders all across the country get what they want—tax provisions for loss carryback. That is in our bill; something the President called for in his State of the Union Message calling for issuance of bonds to buy homes that are in foreclosure, used homes—now it is you can only buy new homes. We have a CDBG provision in that bill to allow people from all over the country to work through their Government to renovate some of the neighborhoods that are devastated by these foreclosures. And then we had a provision in the bill dealing with bankruptcy.

Now, the Republicans have cried volumes that they want to do something about the housing crisis. They would not let us legislate on that. We cannot do that. We cannot get 60 votes. But they say they want to legislate on it.

I told Senator MCCONNELL long before we got on the bill: Let's do amendments. If you want to look at our amendments, fine, look at them; we will look at yours. They said they did not like the bankruptcy provision. Offer an amendment to strike it. I know there are some Democrats who do not like it. Maybe they could get enough votes to get rid of that. They are not willing to legislate. They are stalling. This has been going on all year.

So I have great respect for my friend from Texas, but I do not need to be lectured on what is procedurally obstructionism. We can bring out chart after chart to show what they have done. And do not suggest to me that there has not been obstructionism. They have broken all records of this Congress. They have broken all records of any Congress. They broke in 1 year how many filibusters were filed in a normal 2-year period.

So I extend my appreciation to the Senator from Arkansas, Mr. PRYOR. He is a great Senator. He takes right after his dad. I had the good fortune of serving with his father. I said in an interview I had recently: Who is the Senator you admire most for his legislative capabilities? ''David Pryor of Arkansas,'' I said, ''because he was a wonderful man and a great Senator.'' His son is doing just the same thing his dad did. This bill is a result of tremendous participation.

The Senator from Texas is right, the Senator from Alaska, the Senator from Hawaii have worked on this. This is a bipartisan piece of legislation led by Senator PRYOR. Senator PRYOR is a great public servant. He has had significant experience as attorney general in the State of Arkansas. He was one of the instrumental members of the Gang of 14 who stopped the use of the filibusters in the Senate, as is the Presiding Officer.

So I want the Senator from Arkansas to know how much I appreciate the example he has set in working through the process here. Everyone here should understand that legislating is a compromise. ''Compromise'' is not a bad word, it is consensus building, and MARK PRYOR has done a wonderful job working on this piece of legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, just briefly, roughly half the votes on this chart that the distinguished majority leader has described as filibusters were actually successful votes where cloture was invoked once the majority worked with us, allowed full consideration of the bills, and those bills actually moved forward and became law.

On roughly half of the instances—I have not looked at the entire chart; this is the first time I have seen it here. But that is a perfect example of how we ought to be working together and not an example of obstruction, but it is actually a means that the Senate has been allowed to do what the Senate does, and that is to have full debate, a fair opportunity to offer amendments and then up-or-down votes on amendments and then pass legislation that goes to the President and is signed for the benefit of the American people.

So I disagree with his characterization on at least half of those votes. They resulted in successfully passed legislation, not an example of obstructionism but of this Senate actually working the way the Senate should.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, this is another example of the Orwellian language we get from the White House and this administration, and now obviously some of my friends have picked it up on the Republican side.

These were efforts to stall what we were trying to do. You can say whatever you want. Sure, these passed. That is the whole point. We have chart after chart that shows this whole thing. Of course they passed. How could you, in good conscience, not vote for the 9/11 Commission recommendations? They stalled us going to it because as long as they are here on a 30-hour postcloture do-nothing, it means we cannot go to other things, we cannot go to patent reform, to energy reform—all these things that need to be done.

This Republican President and his Republican Senators want the status quo. They are fighting for the status quo. It is very clear they are fighting for the status quo. They want us to stay the way we are.

We want change to take place. The country needs change. The American people demand change. That is what is going on with the Presidential election out there. That is why you get crowds on the Democratic side, our candidates, tens of thousands of people, 15,000 in Boise, ID. People are looking for change. That is what we are going to bring, and we are going to see that in November. The American people know what the Republicans have done to us, but we are going to continue to work hard. We are going to continue to work hard in spite of that to get things done for this country.

It is my understanding we have a vote set up, and we are getting close. We know a number of people have things to do. We thought we would be able to have it at 4:30. We have been unable to do so. We are getting close, I have been told. Whether we finish this in 10 minutes or tomorrow sometime, congratulations are in order for my friend from Arkansas. He has done a great job.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4104

Mr. PRYOR. Mr. President, I do have good news. This is similar to the old Bob Dylan song, ''Slow Train Coming.'' It has been a slow afternoon, seemingly, but there has been a lot of activity.

I ask unanimous consent to agree to the Feinstein amendment by voice vote.

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

The question is on agreeing to amendment No. 4104.

The amendment (No. 4104) was agreed to.

AMENDMENTS NOS. 4088; 4092, AS MODIFIED; 4101; 4112; 4120; 4123; 4128; 4130, AS MODIFIED; 4113; 4114; 4141; 4136; 4137; 4138; 4143; 4116, AS MODIFIED; 4118, AS MODIFIED; 4090; 4103; 4098; 4109, AS MODIFIED; AND 4108, AS MODIFIED EN BLOC

Mr. PRYOR. I ask unanimous consent to set aside the pending amendment so I may call up the following

amendments en bloc: Klobuchar No. 4088; Dodd No. 4092, with modifications at the desk; McCaskill No. 4101; Boxer No. 4112; Landrieu No. 4120; Collins No. 4123; Klobuchar No. 4128; Nelson No. 4130, with modifications at the desk; Obama No. 4113; Obama No. 4114; Durbin-Hatch No. 4141; Inouye No. 4136; Inouye No. 4137; Inouye No. 4138; Snowe No. 4143; Kyl No. 4116, with modifications at the desk; and Kyl No. 4118, with modifications at the desk; the following pending amendments also be considered en bloc: Pryor No. 4090; Cardin No. 4103; Dorgan No. 4098; Casey No. 4109, with modifications at the desk; and Cornyn No. 4108, with modifications at the desk; the amendments be agreed to en bloc and the motion to reconsider be laid upon the table with no intervening action or debate; that cloture be withdrawn; any remaining pending amendments be withdrawn; the Senate proceed to third reading of the bill; the Senate then proceed to the consideration of Calendar No. 562, H.R. 4040, strike all after the enacting clause and insert the text of S. 2663, as amended; the Senate proceed to a vote on passage of H.R. 4040, as amended, and S. 2663 be returned to the calendar.

Mr. STEVENS. No objection.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 4088

(Purpose: To authorize the Commission by rule to exempt lead crystal from the ban on lead in children's products if the Commission determines that the lead content is not absorbable and does not have an adverse impact on public safety)

On page 69, between lines 4 and 5, insert the following:

(3) LEAD CRYSTAL.—The Commission may by rule provide that subsection (a) does not apply to lead crystal if the Commission determines, after notice and a hearing, that the lead content in lead crystal will neither—

(A) result in the absorption of lead into the human body; nor

(B) have an adverse impact on public health and safety.

AMENDMENT NO. 4092, AS MODIFIED

On page 103, after line 12, add the following:

SEC. 40. EQUESTRIAN HELMETS.

(a) STANDARDS.—

(1) IN GENERAL.—Every equestrian helmet manufactured on or after the date that is 9 months after the date of the enactment of this Act shall meet—

(A) the interim standard specified in paragraph (2), pending the establishment of a final standard pursuant to paragraph (3); and

(B) the final standard, once that standard has been established under paragraph (3).

(2) INTERIM STANDARD.—The interim standard for equestrian helmets is the American Society for Testing and Materials (ASTM) standard designated as F 1163.

(3) FINAL STANDARD.—

(A) REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code—

(i) to establish a final standard for equestrian helmets that incorporates all the requirements of the interim standard specified in paragraph (2);

(ii) to provide in the final standard a mandate that all approved equestrian helmets be certified to the requirements promulgated under the final standard by an organization that is accredited to certify personal protection equipment in accordance with ISO Guide 65; and

(iii) to include in the final standard any additional provisions that the Commission considers appropriate.

(B) INAPPLICABILITY OF CERTAIN LAWS.—Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, and 2079(d)) shall not apply to the proceeding under this subsection, and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding.

(C) EFFECTIVE DATE.—The final standard shall take effect not later than 1 year after the date it is issued.

(4) FAILURE TO MEET STANDARDS.—

(A) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, an equestrian helmet that does not meet the interim standard, required under paragraph (1)(A), shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(B) STATUS OF FINAL STANDARD.—The final standard developed under paragraph (3) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

(b) DEFINITIONS.—In this section:

(1) APPROVED EQUESTRIAN HELMET.—The term ''approved equestrian helmet'' means an equestrian helmet that meets—

(A) the interim standard specified in subsection (a)(2), pending establishment of a final standard under subsection (a)(3); and

(B) the final standard, once it is effective under subsection (a)(3).

(2) EQUESTRIAN HELMET.—The term ''equestrian helmet'' means a hard shell head covering intended to be worn while participating in an equestrian event or activity.

AMENDMENT NO. 4101

(Purpose: To revise the section on Inspector General reports)

On page 72, beginning with line 6, strike through line 8 on page 75 and insert the following:

SEC. 26. INSPECTOR GENERAL REPORTS.

(a) IMPLEMENTATION BY THE COMMISSION.—

(1) IN GENERAL.—The Inspector General of the Consumer Product Safety Commission shall conduct reviews and audits of implementation of the Consumer Product Safety Act by the Commission, including—

(A) an assessment of the ability of the Commission to enforce subsections (a)(2) and (d) of section 14 of the Act (15 U.S.C. 2063), as amended by section 10 of this Act, including the ability of the Commission to enforce the prohibition on imports of children's products without third party testing certification under section 17(a)(6) of the Act (15 U.S.C.2066)(a)(6), as added by section 10 of this Act;

(B) an assessment of the ability of the Commission to enforce section 14(a)(6) of the Act (15 U.S.C. 2063(a)(6)), as added by section 11 of this Act, and section 16(c) of the Act, as added by section 14 of this Act; and(C) an audit of the Commission's capital improvement efforts, including construction of a new testing facility.

(2) ANNUAL REPORT.—The Inspector General shall submit an annual report, setting forth the Inspector General's findings, conclusions, and recommendations from the reviews and audits under paragraph (1), for each of fiscal years 2009 through 2015 to the Commission, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Energy and Commerce.

(b) EMPLOYEE COMPLAINTS.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Inspector General shall conduct a review of—

(A) complaints received by the Inspector General from employees of the Commission about failures of other employees to properly enforce the rules or regulations of the Consumer Product Safety Act or any other Act enforced by the Commission, including the negotiation of corrective action plans in the recall process; and

(B) the process by which corrective action plans are negotiated by the Commission, including an assessment of the length of time for these negotiations and the effectiveness of the plans.

(2) REPORT.—The Inspector General shall submit a report, setting forth the Inspector General's findings, conclusions, and recommendations, to the Commission, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Energy and Commerce.

(c) LEAKS.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Inspector General shall—

(A) conduct a review of whether, and to what extent, there have been unauthorized and unlawful disclosures of information by Members, officers, or employees of the Commission to persons regulated by the Commission that are not authorized to receive such information; and

(B) to the extent that such unauthorized and unlawful disclosures have occurred, determine—

(i) what class or kind of information was most frequently involved in such disclosures; and

(ii) how frequently such disclosures have occurred.

(2) REPORT.—The Inspector General shall submit a report, setting forth the Inspector General's findings, conclusions, and recommendations, to the Commission, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Energy and Commerce.

AMENDMENT NO. 4112

(Purpose: To clarify the requirement to include cautionary statements on advertisements)

On page 32, line 2, insert ''that provides a direct means of purchase'' before ''posted by a manufacturer''.

AMENDMENT NO. 4120

(Purpose: To authorize the Consumer Product Safety Commission to identify and validate alternative technologies for the facilitation of recalls of durable infant or toddler products)

On page 92, between lines 9 and 10, insert the following:

(c) USE OF ALTERNATIVE RECALL NOTIFICATION TECHNOLOGY.—

(1) IN GENERAL.—If the Commission determines that a recall notification technology can be used by a manufacturer of durable infant or toddler products and such technology is as effective or more effective in facilitating recalls of durable infant or toddler products as the registration forms required by subsection (a)—

(A) the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on such determination; and

(B) a manufacturer of durable infant or toddler products that uses such technology

in lieu of such registration forms to facilitate recalls of durable infant or toddler products shall be considered in compliance with the regulations promulgated under such subsection with respect to subparagraphs (A) and (B) of paragraph (1) of such subsection.

(2) STUDY AND REPORT.—Not later than 1 year after the date of the enactment of this Act and periodically thereafter as the Commission considers appropriate, the Commission shall—

(A) for a period of not less than 6 months and not more than 1 year—

(i) conduct a review of recall notification technology; and

(ii) assess, through testing and empirical study, the effectiveness of such technology in facilitating recalls of durable infant or toddler products; and

(B) submit to the committees described in paragraph (1)(A) a report on the review and assessment required by subparagraph (A).

(3) REGULATIONS.—The Commission shall prescribe regulations to carry out this subsection.

AMENDMENT NO. 4123

(Purpose: To provide that Federal employees shall be limited to the remedies available under chapters 12 and 23 of title 5, United States Code, for any violation of the whistleblower provisions)

On page 65, between lines 17 and 18, insert the following:

''(8) Notwithstanding paragraphs (1) through (7), a Federal employee shall be limited to the remedies available under chapters 12 and 23 of title 5, United States Code, for any violation of this section.

AMENDMENT NO. 4128

(Purpose: To revise the inaccessible component rule for children's products)

On page 68, strike lines 4 through 16, and insert the following:

(1) INACCESSIBLE COMPONENTS.—

(A) IN GENERAL.—Subsection (a) does not apply to a component of a children's product that is not accessible to a child because it is not physically exposed by reason of a sealed covering or casing and will not become physically exposed through normal and reasonably foreseeable use and abuse of the product.

(B) INACCESSIBILITY PROCEEDING.—Within 2 years after the date of enactment of this Act, the Commission shall promulgate a rule providing guidance with respect to what product components, or classes of components, will be considered to be inaccessible for purposes of subparagraph (A).

(C) APPLICATION PENDING CPSC GUIDANCE.—Until the Commission promulgates a rule pursuant to subparagraph (B), the determination of whether a product component is inaccessible to a child shall be made in accordance with the requirements of subparagraph (A) for considering a component to be inaccessible to a child.

(D) CERTAIN BARRIERS DISQUALIFIED.—For purposes of this paragraph, paint, coatings, or electroplating may not be considered to be a barrier that would render lead in the substrate inaccessible to a child through normal and reasonably foreseeable use and abuse of the product.

AMENDMENT NO. 4130, AS MODIFIED

On page 87, strike line 15 and insert the following:

SEC. 34. CONSUMER PRODUCT REGISTRATION FORMS AND STANDARDS FOR DURABLE INFANT OR TODDLER PRODUCTS.

(a) SHORT TITLE.—This section may be cited as the ''Danny Keysar Child Product Safety Notification Act''.

(b) SAFETY STANDARDS.—

(1) IN GENERAL.—The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler product; and

(B) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety rules that—

(i) are substantially the same as such voluntary standards; or

(ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

(C) REQUIREMENTS FOR CRIBS.—

(1) MANUFACTURE, SALE, RESALE AND LEASE OF CRIBS.—It shall be unlawful for any commercial user to manufacture, sell, contract to sell or resell, lease, sublet, offer or provide for use or otherwise place in the stream of commerce any new or used full-size or non-full-size crib, including a portable crib and a crib-pen, that is not in compliance with the mandatory rule promulgated in section (b)(1) and (b)(2).

(2) Commercial users include but are not limited to hotel, motel or similar transient lodging facilities and day care centers.

(iii) DEFINITION OF COMMERCIAL USER.—

(A) IN GENERAL.—In this subsection, the term ''commercial user'' means—

(i) any person that manufactures, sells, or contracts to sell full-size cribs or non-full-size cribs; or

(ii) any person that deals in full-size or non-full-size cribs that are not new or that otherwise, based on the person's occupation, holds oneself out as having knowledge or skill peculiar to full-size cribs or non-full-size cribs, including child care facilities and family child care homes; or

(iii) is in the business of contracting to sell or resell, lease, sublet, or otherwise placing in the stream of commerce full-size cribs or non-full-size cribs that are not new.

(2) TIMETABLE FOR RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Commission shall commence the rulemaking required under paragraph (1) and shall promulgate rules for no fewer than 2 categories of durable infant or toddler products every 6 months thereafter, beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the rules set forth under this subsection to ensure that such rules provide the highest level of safety for such products that is feasible.

AMENDMENT NO. 4113

(Purpose: To clarify and expand requirements with respect to information in recall notices)

On page 103, after line 12, insert the following:

SEC. 40. REQUIREMENTS FOR RECALL NOTICES.

(a) IN GENERAL.—Section 15 (15 U.S.C. 2064) is amended by adding at the end the following:

''(i) REQUIREMENTS FOR RECALL NOTICES.—

''(1) IN GENERAL.—If the Commission determines that a product distributed in commerce presents a substantial product hazard and that action under subsection (d) is in the public interest, the Commission may order the manufacturer or any distributor or retailer of the product to distribute notice of the action to the public. The notice shall include the following:

''(A) A description of the product, including—

''(i) the model number or stock keeping unit (SKU) number of the product;

''(ii) the names by which the product is commonly known; and

''(iii) a photograph of the product.

''(B) A description of the action being taken with respect to the product.

''(C) The number of units of the product with respect to which the action is being taken.

''(D) A description of the substantial product hazard and the reasons for the action.

''(E) An identification of the manufacturers, importers, distributers, and retailers of the product.

''(F) The locations where, and Internet websites from which, the product was sold.

''(G) The name and location of the factory at which the product was produced.

''(H) The dates between which the product was manufactured and sold.

''(I) The number and a description of any injuries or deaths associated with the product, the ages of any individuals injured or killed, and the dates on which the Commission received information about such injuries or deaths.

''(J) A description of—

''(i) any remedy available to a consumer;

''(ii) any action a consumer must take to obtain a remedy; and

''(iii) any information a consumer needs to take to obtain a remedy or information about a remedy, such as mailing addresses, telephone numbers, fax numbers, and email addresses.

''(K) Any other information the Commission determines necessary.

''(2) NOTICES IN LANGUAGES OTHER THAN ENGLISH.—The Commission may require a notice described in paragraph (1) to be distributed in a language other than English if the Commission determines that doing so is necessary to adequately protect the public.''.

(b) PUBLICATION OF INFORMATION ON RECALLED PRODUCTS.—Beginning not later than 1 year after the date of the enactment of this Act, the Consumer Product Safety Commission shall make the following information available to the public as the information becomes available to the Commission:

(1) Progress reports and incident updates with respect to action plans implemented under section 15(d) of the Consumer Product Safety Act (15 U.S.C. 2064(d)).

(2) Statistics with respect to injuries and deaths associated with products that the Commission determines present a substantial product hazard under section 15(c) of the Consumer Product Safety Act (15 U.S.C. 2064(c)).

(3) The number and type of communication from consumers to the Commission with respect to each product with respect to which the Commission takes action under section 15(d) of the Consumer Product Safety Act (15 U.S.C. 2064(d)).

AMENDMENT NO. 4114

(Purpose: To require the Comptroller General of the United States conduct a study and report on the effectiveness of authorities relating to the safety of imported consumer products)

On page 103, after line 12, add the following:

SEC. 40. STUDY AND REPORT ON EFFECTIVENESS OF AUTHORITIES RELATING TO SAFETY OF IMPORTED CONSUMER PRODUCTS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study of the authorities and provisions of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to assess the effectiveness of such authorities and provisions in preventing unsafe consumer products from entering the customs territory of the United States;

(2) develop a plan to improve the effectiveness of the Consumer Product Safety Commission in preventing unsafe consumer products from entering such customs territory; and

(3) submit to Congress a report on the findings of the Comptroller General with respect to paragraphs (1) through (3), including legislative recommendations related to—

(A) inspection of foreign manufacturing plants by the Consumer Product Safety Commission; and

(B) requiring foreign manufacturers to consent to the jurisdiction of United States courts with respect to enforcement actions by the Consumer Product Safety Commission.

AMENDMENT NO. 4141

(Purpose: To modify the automatic residential garage door operators standards requirements)

On page 85, beginning with line 22, strike through line 8 on page 86 and insert the following:

SEC. 31. GARAGE DOOR OPENER STANDARD.

(a) IN GENERAL.—Notwithstanding section 203(b) of the Consumer Product Safety Improvement Act of 1990 (15 U.S.C. 2056 note) or any amendment by the American National Standards Institute and Underwriters Laboratories, Inc. of its Standards for Safety–UL 325, all automatic residential garage door operators that directly drive the door in the closing direction that are manufactured more than 6 months after the date of enactment of this Act shall include an external secondary entrapment protection device that does not require contact with a person or object for the garage door to reverse.

(b) EXCEPTION.—Except as provided in subsection (c), subsection (a) does not apply to the manufacture of an automatic residential garage door operator without a secondary external entrapment protection device that does not require contact by a company that manufactured such an operator before the date of enactment of this Act if Underwriters Laboratory, Inc., certified that automatic residential garage door operator as meeting its Standards for Safety–UL 325 before the date of enactment of this Act.

(c) REVIEW AND REVISION.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Consumer Product Safety Commission shall review, and if necessary revise, its automatic residential garage door operator safety standard, including the requirement established by subsection (a), to ensure that the standard provides maximum protection for public health and safety.

(2) REVISED STANDARD.—The exception provided by subsection (b) shall not apply to automatic residential garage door operators manufactured after the effective date of any such revised standard if that standard adopts the requirement established by subsection (a).

AMENDMENT NO. 4136

On page 24, beginning in line 17, strike ''product (other than a medication, drug, or food)'' and insert ''consumer product''.

AMENDMENT NO. 4137

(Purpose: To modify the scope of products to which section 15(b) applies)

On page 36, line 1, strike ''Act)'' and insert ''Act, except for motor vehicle equipment as defined in section 30102(a)(7) of title 49, United States Code)''.

AMENDMENT NO. 4138

(Purpose: To revise the section requiring a study of preventable injuries and deaths of minority children related to certain consumer products)

On page 70, beginning with line 13, strike through line 20 on page 71, and insert the following:

SEC. 24. STUDY OF PREVENTABLE INJURIES AND DEATHS OF MINORITY CHILDREN RELATED TO CERTAIN CONSUMER PRODUCTS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Government Accountability Office shall initiate a study to assess disparities in the risks and incidence of preventable injuries and deaths among children of minority populations, including Black, Hispanic, American Indian, Alaskan Native, Native Hawaiian, and Asian/Pacific Islander children in the United States.

(b) REQUIREMENTS.—The study shall examine the racial disparities of the rates of preventable injuries and deaths related to suffocation, poisonings, and drowning including those associated with the use of cribs, mattresses and bedding materials, swimming pools and spas, and toys and other products intended for use by children.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report the findings to the Senate Commerce, Science, and Transportation Committee and the House of Representatives Energy and Commerce Committee. The report shall include—

(1) the Government Accountability Office's findings on the incidence of preventable risks of injury and death among children of minority populations and recommendations for minimizing such increased risks;

(2) recommendations for public outreach, awareness, and prevention campaigns specifically aimed at racial minority populations; and

(3) recommendations for education initiatives that may reduce current statistical disparities.

AMENDMENT NO. 4143

(Purpose: To ensure that the Commission appropriately addresses impacts on small businesses of the revised civil penalties provisions)

On page 49, strike lines 8 through 15 and insert the following:

establish additional criteria for the imposition of civil penalties under section 20 of the Consumer Product Safety Act (15 U.S.C. 2069) and any other Act enforced by the Commission, including factors to be considered in establishing the amount of such penalties, such as repeat violations, the precedential value of prior adjudicated penalties, the factors described in section 20(b) of the Consumer Product Safety Act (15 U.S.C. 2069(b)), and other circumstances.

Insert at end of 15 U.S.C. Section 2069(b), '', including how to mitigate undue adverse economic impacts on small businesses.''

Insert in 15 U.S.C. Section 2069(c), after ''size of the business of the person charged,'' ''including how to mitigate undue adverse economic impacts on small businesses,''

AMENDMENT NO. 4116, AS MODIFIED

At page 58, insert betwen lines 7 and 8 the following:

''(h) If private counsel is retained to assist in any civil action under subsection (a), the private counsel retained to assist the State may not share with participants in other private civil actions that arise out of the same operative facts any information that is (1) subject to a litigation privilege; and (2) was obtained during discovery in the action under subsection (a). The private counsel retained to assist the state may not use any information that is subject to a litigation privilege and that was obtained while assisting the State in the action under subsection (a) in any other private civil acitons that arise out of the same operative facts.''

AMENDMENT NO. 4118, AS MODIFIED

At page 58, line 7, insert before the quotation mark the following:

''Any attorney's fees recovered pursuant to this subsection shall be reviewed by the court to ensure that those fees are consistent with section 2060(f) of this title.''

AMENDMENT NO. 4109, AS MODIFIED

On page 103, after line 12, add the following:

SEC. 40. CONSUMER PRODUCT SAFETY STANDARDS USE OF FORMALDEHYDE IN TEXTILE AND APPAREL ARTICLES.

(a) STUDY ON USE OF FORMALDEHYDE IN MANUFACTURING OF TEXTILE AND APPAREL ARTICLES.—Not later than 2 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall conduct a study on the use of formaldehyde in the manufacture of textile and apparel articles, or in any component of such articles, to identify any risks to consumers caused by the use of formaldehyde in the manufacturing of such articles, or components of such articles.

AMENDMENT NO. 4108, AS MODIFIED

On page 64, beginning in line 1, strike: ''The court shall have jurisdiction to grant all appropriate relief to the employee available by law or equity, including injunctive relief, compensatory and consequential damages, reasonable attorneys and expert witness fees, court costs, and punitive damages up to $250,000.''

''The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

''(A) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

''(B) the amount of back pay, with interest; and

''(C) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.''

Mr. PRYOR. Having reached this agreement, I now ask unanimous consent the Senate vote on passage of the bill, as amended, at 4:55 p.m., and the time until 4:55 be equally divided between Senators PRYOR and STEVENS or their designees.

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

The majority leader.

Mr. REID. For the information of all Members, this will be the last vote today. It will be the last vote this week. We will be in session tomorrow for Senators to make statements while we are in a period of morning business. On Monday, there will be no votes. On Monday, we will have Senators GREGG and CONRAD here for debate only on the bill relating to our budget. I wanted to try to work something out to do something more tomorrow and Monday, but we have some parliamentary problems that we experience on occasion, and I was afraid to do that for fear it would not allow us to go to the budget. So we have the opportunity tomorrow to come and talk about whatever is important to individual Senators, and then Monday we will move at a reasonable time to the budget.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I know there are Senators waiting to vote. Does Senator STEVENS have anything he wishes to say?

Mr. STEVENS. Mr. President, I wish to thank my colleague, Senator PRYOR,

and our chairman Senator INOUYE, and my colleague, Senator COLLINS, for working so diligently on this legislation. It has been a privilege to work with them to craft this legislation which I feel will help protect the public from dangerous products and return consumer confidence to the marketplace.

I recognize the staff on both sides of the aisle who have worked tirelessly on this bipartisan compromise and helped this bill to reach final conclusion.

I ask unanimous consent to print in the RECORD lists of both majority and minority staff.

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

MAJORITY STAFF

David Strickland, Alex Hoen Saric, Jana Fong-Swamidoss, Andy York, Price Feland, Mia Petrini, Jared Bomberg, Margaret Cummisky, Lila Helms, Jean Toal Eisen, and Anna Crane.

MINORITY STAFF

Paul Nagle, Megan Beechener, Rebecca Hooks, Peter Phipps, Mark Delich, and Theresa Eugene.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I have a list of people to thank, but because we have Senators who would like to vote and some would like to catch airplanes or get on to further meetings this evening, I will wait on that until after we vote.

I am glad to yield back all time on our side.

Mr. STEVENS. We yield back all time.

The bill, as amended, was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4040) to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The PRESIDING OFFICER. Without objection, the bill is read for the third time.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from North Dakota (Mr. DORGAN), the Senator from Illinois (Mr. OBAMA), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 79, nays 13, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—79

Akaka	Feinstein	Murray
Alexander	Graham	Nelson (FL)
Baucus	Grassley	Nelson (NE)
Bayh	Gregg	Pryor
Bennett	Harkin	Reed
Biden	Hatch	Reid
Bingaman	Hutchison	Roberts
Bond	Inouye	Salazar
Boxer	Isakson	Sanders
Brown	Johnson	Schumer
Brownback	Kennedy	Sessions
Cantwell	Kerry	Shelby
Cardin	Klobuchar	Smith
Carper	Kohl	Snowe
Casey	Landrieu	Specter
Chambliss	Lautenberg	Stabenow
Coleman	Leahy	Stevens
Collins	Levin	Sununu
Conrad	Lieberman	Tester
Cornyn	Lincoln	Thune
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
Dodd	McCaskill	Webb
Dole	McConnell	Whitehouse
Domenici	Menendez	Wyden
Durbin	Mikulski	
Feingold	Murkowski	

NAYS—13

Allard	Cochran	Kyl
Barrasso	Corker	Vitter
Bunning	DeMint	Wicker
Burr	Ensign	
Coburn	Enzi	

NOT VOTING—8

Byrd	Hagel	Obama
Clinton	Inhofe	Rockefeller
Dorgan	McCain	

The bill (H.R. 4040), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

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

Mr. DURBIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 466, the nomination of Hector E. Morales to be Permanent Representative of the United States to the Organization of American States; that the nomination be confirmed and the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE

Hector E. Morales, of Texas, to be Permanent Representative of the United States of America to the Organization of American States.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Arkansas is recognized.

THANKING SENATORS AND STAFF

Mr. PRYOR. Mr. President, we are in a period of morning business. I want to pause for 1 minute and thank all of the cosponsors on this legislation. There was a committee bill and the bill that passed the floor a few moments ago. I thank everybody who helped work on this, even those who voted against it. Many of them offered very constructive suggestions and amendments.

Let me start by thanking Senator COLLINS. She has been fantastic throughout this whole process. Senator HARKIN, Senator KLOBUCHAR, Senator BILL NELSON, Senator SCHUMER, Senator DURBIN, Senator LINCOLN, of course Senator SALAZAR, Senator BROWN, Senator MENENDEZ, Senator CASEY, Senator WYDEN, and even though I don't think Senator MCCASKILL was ever a cosponsor, she helped in the last few days on some drafting.

There are two whom I need to single out, and one is Senator TED STEVENS of Alaska, who went to bat and worked through a lot of issues that made this vote today possible, as well as our chairman Senator INOUYE, first because I appreciate very much him giving me the opportunity to manage the bill. He designated me a year ago to try to work on this legislation, and I will always be grateful to him for his leadership and giving me this opportunity.

I also thank members of the staff. We all know we get the credit, we get the publicity, and we are sort of the face, but we could not do this job we do without great staff. So I have a little bit of a long list, but they all deserve some recognition: Alex Hoehn-Saric, David Strickland, Mia Petrini, Jared Bomberg, Mellissa Zolkeply, Margaret Cummisky, Lila Helms, and Jean Toal-Eisen.

These are all members of the Commerce staff on the Democratic side. I cannot tell my colleagues—I cannot exaggerate how many hours they put into this legislation.

Then on my staff: Price Feland, Andy York, and many others helped, but those two went the extra mile, especially Price, who was fantastic.