the three-Commissioner setup we have today and we move it to five Commissioners. We return it back to the way the Commission was originally designed. We feel as though this will be a very positive development.

As part of this issue as well—in a little different section of the bill but nonetheless related—I believe and the cosponsors believe we need to reauthorize this Commission for 7 years. Part of that is because we need to help retool and rebuild this Commission over a several-year period.

One of the things we make very clear in the legislation is we don't try to fix everything on day one. There is a lot that needs to be fixed, a lot that needs to be addressed, but as a practical matter, realistically, we can't fix everything in 1 day. Rome wasn't built in a day, and you can't rebuild the CPSC in one fiscal year. What we are trying to do is phase this in over time and make sure we do it the right way, make sure we do it the smart way. That is why I believe that a 7-year reauthorization makes good sense under the circumstances.

The last point I wish to make this afternoon, or at least right now, is that we have a provision in this bill that I think will really benefit families in a very practical way; that is, we have a provision in this legislation to put identifying marks on products.

We have all been in the situation where big brother gets a G.I. Joe or whatever it may be and passes it down to little brother, or your daughter gets a set of dolls from a neighbor whose kids don't play with those dolls anymore, or whatever the case may be, and we never even saw the original packaging on a lot of that stuff. We don't know when it was made. We don't know how old it is. We don't know anything about it. All of a sudden, we read something in the paper or see something on television about a recall. Right now, we don't have any way of knowing whether it is this particular toy that has been recalled.

So what we are trying to do is set up a regime here where—and by the way, we worked with the manufacturers on this to make sure this is a practical, sensible solution, and we think it is—but to actually stamp the products with different identifying numbers, maybe batch numbers, lot numbers, whatever—not to get into all the technical aspects of it—so that when there is a recall, when there is a problem, or there is some sort of hazard that has been identified, families can look at their product, look at their toys, and know if that is a product that is subject to recall.

So we are trying to be very practical in how we approach this. We are trying to beef up the number of Commissioners. We are trying to make this a 7-year reauthorization, but we are also trying to do things that help families make the determination to keep their families safe, and this is something which I think has been lacking in the current system. Hopefully we will be able to measure in the number of injuries and in the number of deaths and even the number of recalls that happen and the amount of litigation—we hope all of that will go down when it comes to consumer product safety. Hopefully, we will be able to look back and see this as a good piece of legislation.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

AMENDMENTS NOS. 4095 AND 4096, EN BLOC

Mr. DEMINT. Mr. President, I ask unanimous consent to set aside the pending amendment and call up two amendments I have at the desk. They are amendments Nos. 4095 and 4096.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object, I am sorry, what were the two amendments?

Mr. DEMINT. If I can respond to the chairman, two amendments—one is the House bill, which is 4095, and the other relates to the whistleblower provision, which is 4096.

Mr. PRYOR. I am sorry. Was the request just to talk about those?

Mr. DEMINT. No. They are at the desk. I wanted to call them up and speak about them later.

Mr. PRYOR. Call them up and then go back to the pending amendment?

Mr. DEMINT. Yes.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes amendments numbered 4095 and 4096.

Mr. DEMINT. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

(The amendment (No. 4095) is printed in today's RECORD under ''Text of Amendments.'')

The amendment (No. 4096) is as follows:

(Purpose: To strike section 21, relating to whistleblower protections)

Beginning on page 58, strike line 11 and all that follows through page 66, line 9.

Mr. DEMINT. Mr. President, I yield the floor.

AMENDMENT NO. 4094

Mr. PRYOR. Mr. President, I ask to return to the regular order.

The ACTING PRESIDENT pro tempore. The amendment is pending.

Mr. PRYOR. Mr. President, I think we have some colleagues who may be on their way to the floor shortly. I would encourage our Senate colleagues to come to the floor and offer amendments if they have amendments or offer constructive suggestions if they have those or even if they just want to come down and speak. We would really like to get this legislation wrapped up this week. So far, the cooperation has been excellent on both sides.

Again, I wish to commend Senator DEMINT and Senator CORNYN for coming down and offering and addressing amendments that are germane. One of the concerns I had is that we might see the floodgates open up on this legislation and come in with all kinds of nongermane amendments. So I thank colleagues on both sides of the aisle for keeping the amendments germane and on point.

Mr. President, I note the absence of a quorum.

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

RECESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15.

There being no objection, the Senate, at 12:28 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

THE CONSUMER PRODUCT SAFETY COMMISSION REFORM ACT—Continued

The PRESIDING OFFICER. Who seeks recognition? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have an amendment I wish to offer. I will not do it at this point because in order to offer the amendment, I have to ask unanimous consent that the current amendment be set aside. I will describe at least what I am intending to offer. I am going to speak for a couple of minutes because there will be time later to consider this amendment.

This amendment does not deal directly with the underlying legislation. It certainly deals with consumers and this bill deals with consumers. I first applaud my colleague from Arkansas for the work he has done on the bill. I have a couple of amendments to the bill that I will offer as we move along. But this amendment that I wish to offer deals with something else that is urgent and important, and either I get it done on this bill or the next authorization bill that comes along.

The price of oil is somewhere around $103 a barrel at this point. It is bouncing around up in that stratosphere, and the price of gasoline, depending on where one lives, is $3, $3.25, $3.50, some analysts say going to $4 a gallon. Even as the price of oil has ratcheted way up, this Government of ours and the Department of Energy is taking oil from the Gulf of Mexico by awarding royalty-in-kind contracts to companies

with to the Federal Government. Instead of putting this oil into the supply pipeline by allowing companies to simply sell it, our Government is actually putting oil underground in the Strategic Petroleum Reserve.

I support the Strategic Petroleum Reserve, but I do not support filling it when oil is $103 per barrel. Putting 60,000 to 70,000 barrels per day, every single day, underground makes no sense at all. That puts upward pressure on gas prices. The EIA Administrator estimated this morning at an Energy and Natural Resources hearing that the Government's action is raising prices about a nickel a gallon. The fact is, I believe it is more than that.

In any event, I do not think we ought to be taking oil out of the supply pipeline as a deliberate policy of the Federal Government and sticking it underground in these caverns. That makes no sense to me.

This issue came up in the hearing this morning. We have had hearings previously on this topic. I have indicated I intend to offer legislation. My legislation would do two things. It would say, at least for the next year: Let's take a pause on sticking oil underground and taking it out of the supply. Let's take a pause as long as oil is above $75 a barrel. When oil is above $75 a barrel, let's at least, for the next year, not be taking it out of the supply and sticking it underground.

Here is what is happening. On this chart, these are places that our Federal Government is now putting oil underground—Bayou Choctaw, West Hackberry, Big Hill, and Bryan Mound. We are getting oil from the Gulf of Mexico and putting it underground in these salt domes.

The price of oil is subject to a lot of things including excess speculation these days which I have described on the floor of the Senate previously. We had a hearing on this topic. Here are comments from Fadel Gheit, a top analyst from the Oppenheimer & company. He says: There is absolutely no shortage of oil. I'm absolutely convinced that oil prices shouldn't be a dime above $55 a barrel. Oil speculators include the largest financial institutions in the world are speculating on the future's market for oil. I call it the world's largest gambling hall.

He is talking about the futures market on which these prices are made.

> I call it the world's largest gambling hall. . . . It's open 24/7. Unfortunately, it's totally unregulated. . . .This is like a highway with no cops and no speed limit and everybody is going 120 miles an hour.

We have hedge funds that are speculating every day in a significant way in the oil futures market. We have investment banks that are speculating in the oil futures market. In fact, we now read that investment banks are actually buying storage facilities so they can take oil off the market, put it in storage, and wait until the price goes up. We have not had that before. This is not about a supply-and-demand relationship of oil. It is about speculators who are driving up the price of oil and a futures oil market that is rampant with speculation.

Even as that is occurring and we see oil bouncing at $103 a barrel, we have a policy in the Federal Government to take oil from the Gulf of Mexico and stick it underground. That makes no sense to me at all. What we ought to be doing is, the royalty-in-kind oil we get from those wells that belongs to the people of the United States that comes to our Government ought to go into the marketplace to be sold, to be part of the supply system. The Federal Government gets the money for it because it was the Federal Government's payment for that oil as part of the royalty. The oil goes into the supply pipeline and, as a result of that, we put downward pressure on gas prices.

Instead, as a matter of deliberate policy, our Government has decided to stick it underground in the Strategic Petroleum Reserve. It is now about 60,000 to 70,000 barrels a day, and it is going to increase to 125,000 barrels a day in the second half of this year. It is oblivious to all common sense to be putting upward pressure on gas prices as a deliberate policy of the Federal Government. It makes no sense.

As I indicated, my amendment would very simply say: Let's take a pause; let's use a deep reservoir of common sense, take a pause during this year, during a 1-year period, that if the price of oil remains above $75 a barrel, we ought not put that oil underground.

The average price, by the way, in the Strategic Petroleum Reserve of oil that has been stored is about $27 a barrel. Why on Earth would you buy oil at $103 a barrel, put upward pressure on gas prices, and stick that expensive oil underground? It makes no sense.

I indicated that I do not intend to speak at length about this amendment. I have spoken about this before and will later. I see Senator BARRASSO from Wyoming is on the floor. He was part of the hearing in the Energy Committee this morning. He and I talked about this subject. He and I have some of the same concerns. I visited with him, perhaps, about cosponsoring this amendment at some point.

With that, I don't know whether we have been able to clear offering this amendment. I understand not at this point. In order for me to offer an amendment—in order for anybody to offer any amendment I have to ask unanimous consent to set the pending amendment aside. So if I were to offer that, I understand that has not yet been cleared. My hope is we will be able to clear it so I will be able to offer this amendment later this afternoon.

Mr. President, I have spoken with the manager of the bill and I will withhold asking unanimous consent to offer this amendment that I apparently cannot yet get. However, I would like to come back later this afternoon and hopefully we can clear my offering this amendment.

I understand my colleague from Wyoming is seeking recognition. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for not more than 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

CRAIG AND SUSAN THOMAS FOUNDATION

Mr. BARRASSO. Mr. President, years from now, young people in Wyoming will talk about the many events that have helped shape their lives—people such as their parents, their friends, and their teachers, places such as the Tetons, Devil's Tower, and the Wyoming Range, and some will say that Craig and Susan Thomas helped change their lives. They will say there was a foundation. Almost out of the blue they will say that it gave them a scholarship, that it encouraged them to succeed, and that it helped them back into school. And one of those individuals will be able to say: I now have a great job, I have a family, and I get to keep living in Wyoming. These young people will say: If it wasn't for the Craig and Susan Thomas Foundation, I don't know where I would be today.

We know the Craig Thomas who fought every day for the people of Wyoming, advocating before each of you with a Western common sense that is legendary, but on the weekends and on his time in Wyoming, for nearly two decades, the one thing our friend Craig Thomas dedicated himself tirelessly to was the young people of Wyoming. Every kid—top of the class, middle of the class or simply in the class—Craig Thomas would want to meet with them, would want to talk with them, want to laugh with them. He even played Hacky Sack with them in his cowboy boots. He would find out how they were doing, what they were thinking, what they were going to do with their lives. He would tell them to find out what it was they liked to do the best and then do it.

Craig believed everyone should be a good citizen, learn as much as possible, and then have a chance to be happy. But for economic reasons, for family challenges or just a raw deal, we know some of these kids face tall hurdles. Some kids have a harder time, and Craig was always there to help.

Many of my colleagues know Craig also had a wonderful partner in his mission for Wyoming kids, Susan Thomas. A lifelong teacher herself in developmental education, she joined him proudly in reaching out to Wyoming's youth. Together they did an amazing job. I saw them do it. I know many of my colleagues also saw it when Craig would bring members of Susan's classes through the Capitol each year. They would come to watch, to learn, and to be invited in.

Craig and Susan inspired kids across Wyoming and kids right in this area

too. When Craig passed, the letters came streaming in. They came from young adults who said that when Craig Thomas told them they could do something, that they could be anything they wanted to be, when he helped steer them toward achievement, it made a difference in their lives. He inspired and he improved their lives.

Today, March 4, 2008, Susan Thomas is in Cheyenne to launch the Craig and Susan Thomas Foundation. It is a foundation that will reach out, that will search out, that will find the young Wyoming people who need, as Susan says it, a leg up in getting back on a horse after falling off.

Technically, it is a foundation that serves at-risk kids by helping them into programs—programs from cosmetology to culinary schools, votech to high tech, mechanical to anything they are interested in achieving.

The Craig and Susan Thomas Foundation is also ready to identify these young people through many avenues, through the traditional school systems but also through people active in the community. For those people who champion the causes of Wyoming's young people, the foundation will give them special leadership awards.

This is a program for kids who may not qualify for other programs, kids who deserve our attention, kids whom we should not ignore, kids whom our Senator Craig Thomas almost instinctively knew how to help, how to lift up. The Craig and Susan Thomas Foundation will continue to find them, thankfully, and to help them.

This is an exciting day, and congratulations to Susan Thomas, who, with courage and love, carries on Craig's legacy for inspiration, for hope, and for a better life for all of Wyoming's young people.

We miss Craig very much. We are still touched by his deeds. Good luck, Susan, and our very best to you.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PRYOR. 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, let me start our conversation this afternoon about the consumer product safety bill with a chart. I will come back to it in a few minutes, but as the camera focuses on this chart, these are the toys that were recalled in the last year. You can see it starts in March of 2007 and goes to February of 2008. Represented on this calendar are the record number of recalls that we saw last year. I am sure members of the public recall over the summer months—May, June, July, August, and even into September—there were a series of newspaper articles, news magazine stories, television, radio, in addition to Internet stories about the excessive number of recalls.

Really, this matter came to the public's attention through the toy recall issue. Now, of course the Consumer Product Safety Commission deals with a lot more than just toys. Toys are very important, and it is a big piece of what they do, but the CPSC does a lot more than toys. But this chart shows the toys, to give a sense of how many recalls we are looking at every year. And what we have done is, we have picked one item that would represent that recall every month. You can see that most months it is four or five recalls in that given month.

So the CPSC has been very busy. Unfortunately, that is part of the problem. They are overwhelmed with the marketplace today, and it has been very difficult for the CPSC to keep up with the tremendous number of imports.

By the way, every single toy on this calendar is from China—every single toy. I didn't come here to pick on China today, but facts are facts. Last year, in 2007, every toy recall was from China.

One of the things we are trying to accomplish in this legislation is to make sure imported toys meet our safety standards. This is a very basic function of Government; that is, to provide for the health and safety and the general welfare of the people. The Consumer Product Safety Commission is on the front line of doing that.

Now, I want to talk about this again in a few moments, so I will leave it up and allow people to look at it if they want. But before I do, I want to talk about another provision in the legislation that some have found to be controversial. To be honest with you, some of this controversy is because people have looked at the previous version of the bill.

In the previous version of the bill, we had an attorney general enforcement provision that was very aggressive and somewhat open, and people were very concerned that the attorneys general might go wild, so to speak, and start to initiate litigation and bring lawsuits that the CPSC was reluctant to bring.

Regardless of how the committee bill was drafted, that has changed in this legislation. I want to be very clear for my colleagues and, again, for staff members who are watching in their offices on Capitol Hill, that has changed dramatically. I want to go through those changes, if I may, very quickly.

First, when we talk about adding State attorneys general to this enforcement mechanism for the CPSC, we are talking about putting more cops on the beat or, as someone said the other day, ''more feet on the street.'' You can call it what you want, but the idea is that we have a choice to make. If we want to enforce CPSC decisions, we can do it one of two ways: We can hire more people at CPSC and maybe the Justice Department and pay another $5 million, $10 million, $20 million, $50 million, or whatever it may be for enforcement personnel, who are Federal employees, or we can turn this responsibility over to the States and allow the States a piece of this so if there are problems in their home States, they can go after their problems with no Federal taxpayer expense. And that is the route we have chosen in S. 2663.

I know there are some, especially in the business community, who fear the attorney general. When I say that, I mean the State attorney general. They have seen what happened in the tobacco case several years ago. They have seen what has happened in a few other cases since then, and they fear what the attorney general can do, and will do, given the opportunity. Well, let me say a couple of things about that.

First, I was the attorney general of my State, and I know how that office works and I know how attorneys general think and the approach they take to problem solving. I would say that most attorneys general have resource issues like everybody else. They are strained in terms of how much time and attention they can devote to certain matters. Most AGs—not all but most AGs—have the consumer protection ability in their State offices right now. There are very few who don't.

The other thing that is very important about the attorney general is, in the States, the attorney general position is a very respected position. If you take a poll around the country and ask various people in their States, they have a high degree of respect for the attorney general because, by and large, these men and women have done a great public service for their States. In fact, we have to remember, as Members of the Senate, these attorneys general are elected by the very same people we are. I think it is 44 States—I can't remember the exact number—where the attorney general is popularly elected. There are a few that are not. I think Tennessee has the State supreme court appoint the attorney general. But, regardless, most State AGs are elected by the people, and the people trust them.

The other thing I wanted to say about attorneys general is, in general, the reason the State attorneys general act is because Congress fails to act. We saw that in the tobacco case. Several years ago—again, this has been about 10 years ago now or a little more—there was a bill in Congress to regulate tobacco and to fundamentally change Federal tobacco law and the national tobacco policy. Again, I don't remember exactly what year this was—it was sometime in the mid-1990s, I don't remember exactly, but that bill got bogged down. That bill did not make it out of the Congress, and it never became law.

That was the triggering mechanism for the States' tobacco litigation to rev up. I think it had existed before that, but once the Congress failed to act,

once people here in Washington couldn't address and couldn't resolve one of the Nation's great problems, the States acted. And that is the nature of it.

So one thing I encourage my colleagues to think about is to think about our acting and our taking care of the Consumer Product Safety Commission so we don't see that patchwork out in the many States, where State legislators come in with these great ideas about consumer product safety legislation, where State AGs don't try to get creative and come up with some sort of master plan for litigation. Let's avoid that. Let's pass this S. 2663, the CPSC Reform Act. Let's pass this and allow the State AGs some enforcement responsibility but also keep this in the Federal purview.

Let me talk briefly about that. S. 2663 would authorize the State attorneys general to bring a civil action to seek—and this is very important—injunctive relief only for clear violations of the statute or clear violations of orders by the CPSC. So I need to be very clear.

What we are talking about is enforcement only. We are talking about injunctive relief only. That means no money damages. That is what we are talking about. We are talking about the States watching the CPSC, maybe the best example, maybe doing a recall somewhere in the State. They find that product is still on the shelves; it should not be. Maybe it is showing up in Dollar Stores, maybe some retailers like small guys or whatever ignoring it. The State attorney general can step in and get those products off the shelf.

You all know as well as I do the way that is going to work in the real world is the minute the attorney general shows up at that store, they are going to get those products off the shelves. That is the way it works.

It is like a friend of mine told me—one time I called him up and I was the attorney general. He said: Oh, man, my worst nightmare is to have the attorney general call me at my office because you never know what the AG is going to do. It is like having ''60 Minutes'' show up in your front lobby or something.

But, nonetheless, that is the way it is going to work. The mere fact that the States have this authority gives a local hammer to the CPSC that they do not have right now. Right now, what we have to do is rely on the Justice Department or we have to rely on CPSC employees to turn around and try to enforce those out in the various States; try to track down all of these products wherever they may be.

It is hurting enforcement. The States and the State attorneys general are naturally in a better position to know what is going on in their State, and they are in a better position to enforce the CSPC orders in their State. That is the way it is.

Let me say a few more things. I want to get back to this chart. The Consumer Product Safety Commission bill we are talking about now not only limits the attorneys general in the two ways I have mentioned, they have to follow the CPSC, and it has to be for injunctive relief only, but also this requires that the State would serve written notice on the Commission 60 days prior to them filing. So they have to actually notify the Commission.

The fourth thing, the fourth out of five safeguards that are built into this legislation, is that the Commission, if they so choose for whatever reason, can intervene in that litigation.

The last thing is that if the Commission has a pending action going, the States cannot get in that action. Here again, we want to make sure that the CPSC remains in the driver's seat. One of the myths about this legislation that I have heard—and, quite frankly, it has been mostly on this side of the aisle and this is in the business community—is if we pass my bill, what is going to happen is there are going to be 51 different standards out there, there is going to be litigation coming everywhere. That is not the case. Again, because of Senator STEVENS' work that he did to make this bill a bipartisan bill, what we are left with is these very tight controls on the attorneys general. Nonetheless, I think there is value, good value in the States having that enforcement mechanism on a State level.

The other thing I wanted to say before I turn to this chart is this is not a new approach. This is not a new approach. In fact, for over a decade State attorneys general have been able to seek injunctive relief under the Federal Hazardous Substance Act, a statute enforced by the CPSC. This authority has not resulted in varying interpretations of law that have been a concern—if we give the States some authority, we are going to have all of these 51 jurisdictions out there doing all of these different things. That is not the case. We have a 10-year track record with the Hazardous Substances Act and the States have not abused it. They have not abused it. So we know the States can play a very important role with the CPSC and with the Federal Government.

And, by the way, there are lots of other examples—I do not have to get into all of those right now, but lots of other examples where there is a Federal component and a State component to something where the States are allowed to do some enforcement or play a State role, an important State role. I think that is what this has as well.

Let me go to this ''toxic toy'' calendar again. Here again you see these toys that look very familiar, like Thomas up here. Here is the ''Evil Eye'' up here in June of 2007. If I am not mistaken, this is one where they actually had kerosene in the eyeballs. Can you imagine that? They sell these little rubbery or plastic eyeballs that actually had kerosene in those. And this was a children's toy. It is hard to believe.

But you see tops, you see Sesame Street characters, you see little things such as building blocks, you see little scooters, dart boards, a wagon, you see all kinds of things. Some of these might have had lead paint, some of these may present choking hazards. But you can see how busy the Consumer Product Safety Commission is.

Again, part of our legislation is to give them the resources they need in order to do these recalls. But you can imagine with all these recalls and how busy they are—you know, they are over here in September of 2007. They do these toy recalls. Well, suddenly it is October, and they are working on five more. They do not have time to go back to the State of Arkansas or the State of Delaware or Wyoming or wherever it may be in order to go back and enforce what they had been doing in the previous month. They do not have time for that or have the resources for that.

Again, I think the way we have this structured is very positive. Let me give a few examples of what we are talking about here. Let's start with this first month, March of 2007. See this airplane right here? The batteries can overheat in this airplane and cause a fire. This animal farm, this little farm right here, these little pieces can fall off and they become a choking hazard. This keyboard can catch fire. This easel has lead in it.

Then we go over here to April. We see on the infant bouncer, which is right here, this little infant chair, a falling hazard out of the seat. There may have been something in the design or construction that made children susceptible to falling out of this.

This puzzle has a choking hazard. Again, maybe these knobs come off or something will break off, I am not quite sure, but a choking hazard; this activities chart, a choking hazard; the bracelets that you see here, lead poisoning. Again, you can go down this list. This infant swing right here is an entrapment hazard. I am going to tell you, these entrapment hazards are terrible stories. I have talked to those families before. We had a case in Arkansas a few years ago. It was not with an item here, but it was with a crib type playpen. I am going to tell you, it collapsed on the child and choked the child. It was terrible. Unfortunately, we see that all over the country.

This ''Evil Eye'' eyeball, they are ''evil eyes'' because they are full of kerosene. It is hard to believe. Seriously. Think about that. It is hard to believe that any company with any sense at all—I mean, unbelievable—would actually put kerosene in the little toys. Think about it. I do not know why in the world they would ever do that. But that is exactly what they did.

Again, we can go down a long list of what can go wrong with these toys. But this is why the marketplace needs some supervision. The marketplace needs something such as the CPSC and someone on a State level, such as the

State attorneys general, to make sure these toys are not present in the stream of commerce in the various States.

Again, the attorneys general provision of this proposed bill has been a little bit controversial, but it should not be anymore because we have built in the safeguards. We have tried to find the consumer protections. We have tried to make the right policy but at the same time make sure that the attorneys general have the right parameters on them and also keep the CPSC in the driver's seat and to make sure that the State AGs can only seek injunctive relief.

That is a very important point, that injunctive relief, because what that means is there are no money damages with an injunction. They are going out there to force someone to do something such as pull something off the shelf or stop selling something or whatever the case may be. That is a very positive development.

I have heard from a few groups in the last several days on this concern about contingencies: We should not have any contingent fees. Well, realistically, as a practical matter, I do not think you are going to see any contingent fees with injunctive cases. It is very rare to find injunctive cases with a contingency fee. I guess it can happen. I have seen one example where some lawyers tried to do that.

The other thing about the State AGs, given the nature of these claims, I do not think you are going to see very many States use outside counsel. Usually the States bring in outside counsel when there is something very complicated, where there are a lot of costs, or it is a long-term piece of litigation that is going to take years and maybe millions of dollars to repair, very complicated. Again, this is not one of those types of cases. This type of case is you see a CPSC finding, for example, they say the evil eyeballs, kerosene-filled eyeballs cannot be sold in the United States. Some AG is out, they look around, they see it being sold in a Dollar Store, they see it being sold in some discount store somewhere, and they can go after that store and make them get them off the shelves.

Again, I think what you will see here is probably very little litigation. I think once that attorney general tells them, we are about to come after you, in my experience as attorney general, most people will respond to that and respond to that very quickly. They do not want the publicity, they do not want the hassle of selling something such as that.

The last thing I was going to say on the contingent fees is contingent fees, of course, are used in lots of different types of litigation. But if you think about it with injunctive relief cases, there is no money to base a contingent fee on. So if you are going to pull a bunch of ''Evil Eye'' eyeballs off the shelf, how does the contingent fee work? I think more often than not, much more often than not, you will not see any contingent fee cases. I do not think they apply.

The last thing I was going to say on the outside counsel, most States have a process you have to go through to get outside counsel. In fact, when I was attorney general of Arkansas, we never went through the process. We knew about the process; we never went through it. But you actually had to get approval of the State legislature and have the Governor sign off on it. They did that before I became AG. I do not think they ever did that when I was there. I do not think they have done it since. Everyone has a different process, but usually the States will have to go through an RFP type process that can take months. Again, we already have a provision in here where they have to send notice to the CPSC for 60 days. So I would be surprised if you see the States want to stretch out this timeframe, because usually what they have done is they have found a dangerous product in their State, and they are trying to get rid of it.

We have worked very hard to listen to everyone's concerns about the State AGs. We have tried to meet these concerns. We have tried to make sure the concerns are valid. We have tried to meet those and tried to make sure we can keep this bill bipartisan, and hopefully get the 50 votes on this bill as it is written right now.

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

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

AMENDMENTS NOS. 4095 AND 4096

Mr. DEMINT. Mr. President, I would like to take a few minutes to speak on two amendments I called up this morning. I appreciate the opportunity to speak. These amendments certainly relate to the consumer product safety bill my colleague from Arkansas has done such a great job ushering through committee and onto the floor. It is clearly a very important issue for us as a nation.

Last year, we were reminded a number of times of the problems when the safety of our products is not ensured. We saw some products coming in from other countries that gave us cause for concern, as well as from within our own country. In the food and drug area, we have certainly seen problems there. So we need as a Congress to make sure we do everything we can to ensure the products that are sold in this country, particularly for our children, are safe.

This was an issue the House of Representatives took very seriously. They have worked for a number of weeks, if not months, on a consumer product safety bill. Speaker PELOSI was very involved with the bill, as well as Chairman DINGELL and Ranking Member BARTON. They produced a bill that had been vetted by a number of people. It had support from consumer product groups, as well as from a number of manufacturers, which is key, that we cannot ignore in the Senate. We need to make the products safe, but we also need to make sure we do not put such a burden on American businesses that they cannot create the jobs and grow the opportunities in the future. That is a delicate balancing act which I believe the House achieved.

In a remarkable vote, the House voted unanimously to support the consumer product safety bill they had on the floor. That bill does a number of things we talk about here.

Let me first read a quote from Chairman DINGELL, who is the chairman of the Committee on Energy and Commerce. It was his committee that worked so hard on this bill. He said, in a New York Times editorial:

> Let's hope that the Senate acts expeditiously and with the same bipartisan commitment as the House.

It is a quote I very much appreciate. We were here in the Senate disturbed, a few weeks ago, when we worked real hard to pass a bipartisan Foreign Intelligence Surveillance Act that we hoped the House would act on in the same bipartisan fashion. Unfortunately, the House decided they needed to include some provisions, some special interest provisions that allow plaintiffs' lawyers to sue the telecommunications companies that are helping us intercept messages from suspected terrorists.

I am afraid we are doing the same thing now on the Senate side that our House colleagues did. We have a very important issue in front of us, which is consumer product safety. The House has sent us a bipartisan bill with clear support from all our constituencies. Yet we have decided on the Senate side to add some special interest provisions, specifically for plaintiffs' attorneys and union bosses.

The House bill does a lot of the things I believe in and I think most of my Senate colleagues believe need to be done.

First of all, it requires there be third-party testing of children's products for lead and other hazards to ensure that unsafe toys never make it to the shelves.

It also requires, as my colleague from Arkansas was mentioning earlier today, that manufacturers place distinguishing marks on products and packaging of children's products to aid in the recall of those products. It can be years later that a product is found to be defective and recalled, and we need to have a way to identify those defective products and recall them and to notify consumers of safety problems.

The bill the House passed unanimously also replaces the Consumer Product Safety Commission's aging testing lab with a modern, state-of-the-

art lab that will allow them to find which toys are safe and which ones are not.

It improves the public notice about recalls so we have a better system of letting the public know when we find a safety problem.

It preserves a strong relationship between industry and the Consumer Product Safety Commission to ensure that industry continues to share information we can use to determine the safety of products.

It also restores the full panel of five Commissioners to the Commission.

This bill is a bill we should pass in the Senate. We know if we go through the process this week of adding amendments and changing the bill, even if we ultimately pass a bill, we are looking at weeks if not months in conference with the House to come out with a final bill.

We have an opportunity. If we pass this amendment, which is a substitute to the underlying bill, passing the House bill, we can send a new bill, a consumer product safety bill, to the President that can be implemented right away.

Again, this is a bill that passed 407 to nothing in the House, with the Democratic leadership taking the initiative on this bill and Republicans agreeing. What we are doing here in the Senate is adding a number of provisions that are not for consumer product safety but designed to create loopholes for special interests.

One is the whistleblower protection provision, which I have a separate amendment to strike. There are ways we can fix this provision. We have a Federal standard we apply to our own agencies that does not create an open-ended litigation process but focuses more on protecting those who make us aware of a problem that an employee tells us about. We need to do that in industry.

I am certainly willing to work with the majority on this issue. I believe Senator CORNYN has an amendment that applies that Federal standard, which would improve this legislation, provide whistleblower protection, but at the same time not create a playground for plaintiffs' attorneys as well as create an opening, as this bill does, for disgruntled employees to wreak havoc inside an organization.

The way the bill is set up, any employee—who may be aware he is getting ready to lose his job for incompetence or something else—can complain about a safety issue, which may or may not be real, and that employee is basically guaranteed a job for life because this bill does not allow a company to fire someone who complained about a safety problem. Even if there was not a safety problem, all the employee has to do is say they had a reasonable belief there was a safety problem.

Folks, it is hard enough to do business in this country today. It seems everything we do in this Congress makes it more expensive and more difficult for our companies to compete in a global economy. Countries throughout Europe lowered their corporate tax rate to 25 percent. China has lowered its corporate tax rate. We continue to keep ours at a level that makes it very difficult for our companies to compete. We need to realize, as we seek consumer product safety, particularly safety for children, we do not need to put unnecessary burdens on our companies and make it more difficult for them to operate in this country.

The whistleblower provision in this bill does not improve consumer product safety, but it does create a potential for increased problems with folks who are manufacturing in this country. We need to realize foreign-based companies are not faced with this same provision. It is only those that are American owned, operating here, that have to follow this whistleblower law the Senate is attempting to add in the consumer product safety legislation. So what we have are American companies at a disadvantage to companies in other parts of the world that do not have to comply. My amendment would strike this provision. Perhaps we can reach a compromise and protect the whistleblower without damaging our competitiveness as a nation.

Mr. President, these are two amendments, and I have a number of others that get at some of the problems in the bill. But, again, I commend the chairman for his work and the commitment by this body to improve consumer safety in this country. I hope we can work together in a bipartisan fashion to create a bill that is focused on safety and not so much on doing favors for our different constituencies.

With that, Mr. President, I yield back 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. 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 ask unanimous consent that the time until 5:30 p.m. be used for debate on DeMint amendment No. 4095; that the time be equally divided between Senator DEMINT and Senator PRYOR or their designees; and that following the use or yielding back of time, the Senate proceed to a vote in relation to the DeMint amendment No. 4095, with no second-degree amendments in order prior to the vote.

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

Mr. PRYOR. Mr. President, I wish to speak about the DeMint amendment. Senator DEMINT, by the way, has been very constructive in our meetings and in our discussions. His staff met with my staff last night. The meetings to date have been constructive and positive. We are hoping that they might actually lead to some improvements to the legislation, but we will have to wait and see to know how some of this works out.

I think it is very important for colleagues to understand what this amendment does that Senator DEMINT is offering first and that we will vote on at 5:30, and that is it would take the work the Senate has done on this legislation so far and throw it out the window and adopt the House-passed measure. Now, there are a lot of differences between the House and the Senate versions. Senator DEMINT was correct a few moments ago when he talked about how there are a lot of similarities as well, and that is exactly right. I think I can be fair in my discussion when I say that at least my impression is that when the House started their process last fall, they were doing it—again, from my perspective—more in terms of a reaction to a lot of the news stories everybody was seeing about dangerous toys and children's products that were setting off alarm bells all over the country. I think their bill started as a reaction to that. That is not a bad way to start a bill; I am not critical of the House in any way on it. I am proud of what they did and glad they got it through their committee and actually passed it on the House floor. I believe it was the very last day they were in session last year—if not the last day, it was the last week. So I am proud of what they have done. I would say their bill is a pretty good bill.

Part of the reason, though, or the primary reason their bill has a lot of similarity to ours is during that process—and this is just legislation; I am not critical at all, but during that process they eventually looked at our bill that we were working on in committee, and they took about half or so of it—maybe about 60 percent of it—and did some cutting and pasting and just put it in their legislation. Again, I am honored that they did and flattered that they did because we had been working hard in the Commerce Committee to make sure the reform we were talking about was comprehensive and was good.

I would say generally, in broad strokes, there are two or three major differences between the House bill and the Senate bill as the Senate bill exists today. One is that we have more enforcement in our legislation. We have more transparency in our legislation. We have more comprehensive reform in our legislation than the House bill does. Again, I am not taking away from the House bill. I appreciate their bipartisan effort over there, so I don't want my words to be interpreted as in any way critical. But I do think our bill is better. Ours is bipartisan—and so is theirs, by the way—with Senator STEVENS and Senator COLLINS. I have spoken with several of my Republican colleagues over the last few days, and I would hope they would consider joining

us as cosponsors. I would love for them to consider doing that today. I had some discussions yesterday with a handful of Republicans who said they were interested in at least considering cosponsoring. So we are waiting to hear back from some of those offices today, but we would love to add more Republican cosponsors if at all possible.

Let me go through some of the primary differences in what the House bill does and what the Senate bill does. There are many. Again, the bills are largely similar because the House adopted a lot of what we did, or more or less adopted what we did in the committee. A lot of that has not changed at all, or it has changed very little. So let me run through a few points, five or six points.

First, I would say the Senate bill is more transparent. When I say that, what I am talking about is, under our bill—again, the bipartisan Senate substitute—what I am talking about is there is more information publicly available to people under the Senate bill. We have seen this happen on many occasions. I was going to tell this story later. We have some charts to this effect I didn't want to bring out right now because we will get into this in more detail later. We are going to talk about several examples of incidents where people were injured and where they had bought and used a product that the CPSC had known about and known about the dangers of it, but the CPSC was in negotiations or in discussions with the manufacturer about doing a recall. In fact, there is one incident we are going to talk about later—and it may be tomorrow at this point, depending on how the rest of the day goes—there is one product we are going to talk about where a baby crib collapsed, and it caught a young girl's hand in that crib. I think she was roughly about a year old. We will get the facts on this when we go to it. I think she did end up avoiding serious injury, but it was scary. There were some moments there for the parents.

So the father called the manufacturer of the crib and the manufacturer played dumb. They say: Gosh, we didn't know. We never heard of this problem before. We didn't know our cribs had this problem. Are you sure you had it set up the right way? Are you sure she wasn't abusing it somehow? All of those kinds of things.

The father found out later that by the time he called, that company had 80 complaints about that crib doing exactly the same thing. But because there is no transparency under the current law, there was no way for the father to find out.

If our bill passes, we will set up a database that is searchable where you can go and look at a specific product and know if there have been complaints about it before. This will be a huge benefit to parents and grandparents all over the country. We need to do this. The House bill doesn't have that provision. The House bill has a study. It says: Yes, we ought to study this idea of a database, but they don't have a database. In fact, the database we are talking about, we are not inventing this out of whole cloth. We are using another Federal agency's idea which has worked very well, and that is NHTSA, the National Highway Traffic Safety Administration. I would encourage—here again, I mentioned this before—all of the staff people who are watching in their offices and who think their boss might be undecided on this legislation or undecided on this one point, I would encourage them right now to go to the NHTSA Web site, and there is a little area you can click on that talks about recalled products. I encourage you to do that and go through that and see first how easy it is to use; secondly, the quality of the information that is on there.

Again, we are going to show this later with charts to show all of my Senate colleagues how easy it is, but also how balanced and how fair it is. The industry has had some concerns they will be smeared, that they will be slandered or libeled with all of these complaints. But I think the NHTSA Web site shows it can be done in a very responsible way and done in a way that does help the general public.

Another difference I want to talk about, the second difference between the House version and the Senate version is, the Senate bill—the bill we are on right now—adopts what they call ASTM963–07, which is a standard that is widely accepted by the industries. ASTM stands for the American Society for Testing and Materials, and that has just kind of become a lingo—ASTM has become a lingo in the consumer product world for a set of standards. ASTM963–07 has become a widely recognized, widely utilized standard.

What we do is, we codify that standard. If our bill passes, it is not going to be voluntary. It is not going to be—some people may be following it, and some people may not. We are going to codify it. We will make it law. Again, these are standards that the industry has been using and has accepted. This is not a controversial piece of this legislation. However, this ASTM963–07 is not in the House bill. So the House bill keeps the status quo. They say they are going to assess the effectiveness. Well, it has already been assessed. It has been out there for years and years and years. Again, it is basically universally agreed that these are good safety standards that set the standard for industry and should be adopted into Federal law.

The third difference with the House bill I wanted to talk about is this idea of punishing companies when they do the wrong thing. The Senate committee passed the bill out of committee with a $100 million civil penalty—$100 million. It went from $1.8 million to $100 million—over 50 times what is in existing law.

The House, in the meantime, passed a provision that had a $10 million penalty. Well, the concern I have with the $10 million penalty—civil penalty—is that for a lot of these big companies, $1.8 million can just be the cost of doing business. Again, we have some charts on this that we may show in the next couple of days—it can be the cost of doing business for some of these big companies—$10 million is better. It gets their attention. But what we do is, we set our cap under the Senate bill at $10 million unless there are aggravating circumstances. If there are aggravating circumstances such as maybe you have a repeat offender, maybe you have some particularly egregious behavior, or maybe you have a company that just absolutely does not have any regard for U.S. safety standards. Again, a lot of these products that are defective are coming in from overseas. Maybe they don't have the quality control over there. I don't know. They maybe have a chronic problem or whatever it may be. The Senate bill allows you to take the $10 million max and do an additional $10 million, again, if there are aggravating circumstances.

Quite frankly, I hope the CPSC never has to use that, but the fact that they have that ability maybe will put a little fear in some people when they make some of these decisions about cutting corners on lead paint or making defective products, whatever they may be.

So, again, the Senate bill has a 10-plus-10 provision, which is $10 million max in lesser aggravating circumstances, and then you can go for an additional $10 million. The House bill just has the flat $10 million.

Another difference, and I would call this the fourth difference between the Senate bill and the House bill, is that the Senate bill has a protection for employees who notify the CPSC of violations. Now, this is important. You don't want employees to be punished for doing the right thing. We all know how it works in the real world. It happens where an employee will, over the objections of a company—over the objections of his employer—go and inform the CPSC about some safety violation. It does happen. Again, we have examples. We have charts if anybody wants to see them, or we have memos and background, news articles, et cetera, if people want to see those. But the truth is, you have to keep this in perspective.

What we are talking about with our so-called whistleblower provision is a provision where an employee—it is basically only triggered when an employee of a company tells the CPSC about a dangerous product.

This is fundamental stuff. This employee is out there letting the public know, basically telling the Government there is a dangerous product that is either in the U.S. market or about to get to the U.S. market. Again, that employee for doing the right thing should not be fired or demoted or whatever the case may be. If we set up a process in our law that is based on existing law where the employee goes

through the Department of Labor process, it is well established, we adopt what this Congress has passed in previous years as the standard we would like to see on our whistleblower statute. The House bill has no such protection. We feel as if this is an important improvement in the legislation because we think we will get more information to the CPSC if the employees understand they are protected.

Let's talk about misinformation about this one provision. In the Commerce Committee bill, we actually had a bounty for these employees for turning in companies. We had a bounty in the bill. When I talked with Senator STEVENS, that was not acceptable to him. He made it very clear that he thought it would cause a lot of heartburn on the Republican side. He was very adamant we take that provision out, and we did.

We have also done some other things to build in some safeguards. For example, if an employee files a frivolous claim with the Department of Labor, he can be subject to a $1,000 penalty. I don't have to go through all that today.

Our Senate bill, we believe, is balanced, we believe it is fair, we believe it is in the public interest to have this information come forward and the employee not be punished at work for telling the Government about a safety violation.

The fifth matter I wish to talk about is lead. I heard someone say this bill is the ''get the lead out'' bill. This bill does, for the first time, in a very historic manner, set a standard for lead in children's products. Most Americans believe there is a standard for lead in children's products. There is not a standard. There is a standard for lead in paint but not for children's products.

Every pediatrician with whom I have ever talked and every pediatrician who has testified either on the House side or the Senate side and every scientist will tell you of the dangers of lead. It is basic scientific medical knowledge today that lead is bad for children.

What we do in the Senate version of the legislation is we essentially ban lead. We do not completely ban it because we understand that lead is a naturally occurring element. We are going to have trace amounts of ambient lead in the atmosphere. We acknowledge that in our legislation. And our legislation, when it comes to lead, is more aggressive in getting the lead out of children's products. We do it quicker, and I think we do it in a better way than the House bill does.

The last point I wish to mention on the seven major differences between the House version and the Senate version is the DeMint amendment—and that is what we are talking about today—to make sure the Consumer Product Safety Commission has the funding it needs to do what we want it to do.

The Senate version is a 7-year reauthorization. The DeMint amendment would flat line the funding at a 10-percent level after 2009. Our bill actually has a slower ramp-up or it does have a ramp-up in resources, but we acknowledge there is a lot of work to be done with this Commission. We cannot just give it a year or two of increased appropriations and then flat line it and hope it is going to be OK. What we need to do is continue to invest in this Commission to make sure long term we set it up for success.

The Senate version has that major advantage over the DeMint amendment. The current version has a big advantage over the DeMint amendment when it comes to providing the resources to the Consumer Product Safety Commission.

On that point, I say this: My colleagues all know, because they have seen my voting record, there have been times when I have been pretty much a deficit hawk around here and times when I have tried to shrink Government and different efforts such as that. I am not a person who believes we ought to throw money at a problem because I think generally when we do that, we do not get a very good result. I have seen that time and time again on the Federal level. But this is an exception. This is one of those times when I think we are being targeted, I think we are being responsible, I think we are slowly ramping up this Commission and not throwing a bunch of resources at it right now, but we are measuring out those resources over time, over a several year period.

I think what we will see in 7 years is a much stronger CPSC than we have today. It is not just about the CPSC as a commission being stronger. That may, in and of itself, be OK, but what is good about our legislation, the Senate version, is I believe very strongly we will have a big improvement in safety all across America.

We talk about toys, and toys are a very important piece of what the CPSC does, but they do all kinds of things. Part of this legislation is to have a Federal standard on portable gas cans and the caps that are on gas cans. We have seen that problem in many incidents around the country because there is no common standard on gas caps on these gas cans.

What we will be able to do with this legislation, with the Senate version, is to make the consumer product safety world much safer. Again, my hope is that when we stand here, say, 5 years from now, we will see a precipitous decrease in litigation, we will see a decrease in recalls, we will see a decrease in injuries, and we will see a decrease in deaths as a result of consumer products and consumer product violations.

I say to my fellow Senators, it looks as if we are going to vote on the DeMint amendment at 5:30 p.m. today. I encourage Senators and their staffs to look at the DeMint amendment and look at how it weakens the Senate version of the Consumer Product Safety Reform Act. It does weaken the Senate version. The DeMint amendment is basically—well, it is exactly accepting everything the House has done. We can do better than that. We can be stronger. In fact, I have talked with several House Members who like what we are able to do in the Senate version. The DeMint amendment puts us where the House is, and we need to have the Senate's stamp on this legislation so we can go back home and tell the people what we are doing for them.

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. 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 ask unanimous consent that the time during the quorum call be equally divided.

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

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

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

Mr. ALLARD. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object, I ask that the time come out of the Republican time, because I think the Republicans have 55 minutes, or something like that, and the Democrats only have 28 minutes.

Mr. ALLARD. That is acceptable to our side. I thank my colleague.

The PRESIDING OFFICER. The Senator from Colorado.

THE BUDGET

Mr. ALLARD. Mr. President, I think it would be helpful for us to spend some time before the fiscal year 2009 budget bill is before us to review the fiscal year 2008 budget. This is something we could not do last year. Last year, the majority was in their first year and in sort of a honeymoon phase. They had the benefit of the doubt and no recent record to be saddled with. They could make pledges and promises, they could make forecasts and make predictions, and we were under an obligation to wait for those results. The charge of tax and spend was from the past. Perhaps things were different.

Well, the Democrats' 2008 budget raised taxes by $736 billion. It assumed the largest tax increase ever, hitting 116 million people. It failed to extend middle-class tax relief, as promised. The Democrats' fiscal year 2008 budget

increased spending by $205 billion. It hiked nondefense discretionary spending $205 billion over 5 years. That is $350 billion over 10 years. It manipulated reconciliation to spend $21 billion in entitlements. It allowed entitlement spending to grow by $466 billion over 5 years.

The budget and its supporters repeatedly ignored, waived, or gimmicked pay-go to the tune of $143 billion. The Democrats' fiscal year 2008 budget grew the debt by $2.5 trillion. It passed the debt along to our children, who will each owe $34,000 more. The Democrats' fiscal year 2008 budget ignored entitlement reform. It failed to offer any real solutions to the $66 trillion entitlement crisis.

The budget and its supporters rejected reasonable proposals to address this entitlement crisis and, instead, allowed entitlement spending to grow by $466 billion over 5 years. The budget wildly overstated revenues from closing the tax gap to justify more spending. That bill was, in fact, a classic Democratic tax-and-spend bill.

The majority had a clean slate, a new dawn. They went with the worst policies of the past—bigger taxes, bigger spending, bigger debt, and larger government. One example will show we are dealing with what can only be described as either cold cynicism about the value of their rhetoric or gross ignorance of government realities. The SCHIP authorization bill increased entitlement spending $35.4 billion over 5 years and $71.5 billion over 10 years. However, a blatant budget gimmick drastically cut the program's funding in 2013 by 85 percent to avoid a pay-go point of order. Nobody seriously expects this funding cut to occur. Nobody seriously believes this qualifies as paying as you go. Yet both claims were made on this floor.

I voted against the fiscal year 2008 budget. The budget represented a 6.8-percent increase in domestic Federal spending in 1 year. And let us look at the debt figures. We see the debt is increasing unimaginably. We are seeing a tremendous growth in the deficit, increasing by $440 billion. We see mandatory spending growing unchecked by $411 billion in fiscal years 2008 through 2012. We spend more than $1 trillion of the Social Security surplus. Unfortunately, what we end up with is a growth in the debt of over $2.2 trillion.

Yet the deficit is increasing while more taxes are expected to be collected. If the tax increase goes into place—and that happens because there was no provision to make the tax cuts that were passed in the Republican Congress in 2001 and 2003 permanent—by default these taxes are going to increase by over $736 billion. So we have a deficit that is increasing even though we have a dramatic increase in revenues which were taken into account in this budget. That is going to be the largest tax increase in the history of this country contributing to overspending.

We are entering a new phase in our economy, a time when the negative effects of the housing crunch are coming due. But the housing problems are attacking the prosperity that resulted from our earlier tax policies. The tax cuts we put in place in 2003 stimulated the economy. As a result of those tax cuts, there was more money available for local governments to help pay for their programs, including State governments. There was more money available for the Federal Government. That is why it was so easy for the majority party to put together that budget last year, because of the large amount of revenues coming in to the Federal Government. I attribute that to the fact that we cut prices for the working men and women of this country, primarily those who own their small businesses and, by the way, who put in more than 40 hours a week. Many times they work 7 days a week to keep those small businesses operating, supporting their communities. That is where we generate the revenue.

Now that our economy is trending in the wrong direction, and when we need the benefits of a reasonable and progrowth tax policy, the reality is going to be that we are going to depress our economic growth. We are talking about increasing taxes on corporations that do business all over the world. Well, they are in a competitive environment. They have to compete with other countries. We cannot constrict our economy to strictly American borders. We have to extend beyond that. If we want to get our economy going, we are going to have to talk about trade. We are going to have to talk about doing business all over the world.

Let's look and see how individuals are going to be impacted by this tax increase that will happen by default because we do not keep it from expiring in the outyears. A family of 4, earning $40,000 a year—that is if both the husband and the wife are working and making $20,000 each—will face a tax increase of $2,052. We have 113 million taxpayers who will see their taxes go up an average of $2,216.

Now, if we look at this a little further, we see that over 5 million individuals, families who have seen their income tax liabilities completely eliminated, will now have to pay taxes. That is the new tax bracket we have created to provide tax relief for many of those working families. So that is going to expire. When that expires, that is going to impact 5 million individuals and families who will begin to have to pay taxes that they were allowed to get by without having to pay so they could pay for the education of their kids, so they could pay for health care, so they could pay for the needs of the family, food and shelter.

We are not talking about individuals who are making a lot of money in this case. Forty-five million families with children will face an average increase of $2,864; that is the marriage penalty. Fifteen million elderly individuals will pay an average tax of $2,934. These are the people who are on retirement. Twenty-seven million small business owners will pay an average tax increase higher than any of those groups that I mentioned of $4,712. That is where our economic growth is generated—or was generated.

People of Colorado have asked me: How is this likely to affect me as a Coloradan? Let me talk a little bit about how this could affect taxpayers of the State of Colorado.

In Colorado, the impact of repealing the Republican tax relief would be felt widely. For example, more than 1.6 million taxpayers statewide who are benefiting from a new low 10-percent bracket would see their tax rates go up; 590,000 married couples could face higher tax rates because of an increase in the marriage penalty; 432,000 families with children would pay more taxes because child tax credits would expire; and 310,000 Colorado investors, including seniors, would pay more because of an increase in the tax rate on capital gains and dividends.

Remember, seniors who have retired have a lot at stake when we talk about capital gains taxes and dividends because they put their money in the stock market. They have put it in investments. As retired individuals, they are finding that they are beginning to pull that out for their retirement. The consequences are that without that tax break, they would not have been able to save as much money toward their retirement.

Tomorrow, we are going to get our first glimpse of the majority's proposed fiscal year 2009 budget. We have more clarity now on what we can actually expect when pay-go—which some refer to as ''tax gap''—and spending curbs and other terms are thrown at us by the supporters of that budget. We know that last year the words might have implied one thing, but the numbers said an entirely different story: Spending went up, the deficit went up, and taxes went up. Let's hope this year is a better year for the taxpayers and the citizens of this country.

I yield the yield floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

Mrs. FEINSTEIN. Mr. President, I will retract that and not set aside the pending amendment.

AMENDMENT NO. 4104

I would like to speak on an amendment I intend to submit at the appropriate time.

There are six chemicals that are often included in plastic toys. What those chemicals do is essentially make the toy softer, more pliable—ergo, more attractive to children.

This is my communications director's young son. His name is Max Gerber. He is 8 months old in this picture.

He is sucking on his favorite book. I ask unanimous consent that I might show you what that book looks like.

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

Mrs. FEINSTEIN. This is that book. The book is called ''Hello Bee, Hello Me.'' As you can see, it is an attractive book. It was studied in 2006, and it was found to be loaded with phthalates. But this is what babies do; they put everything in their mouths.

Phthalates all too often are found in high quantities in children's toys and other products. Studies have found that they are linked to both birth and other serious rare reproductive defects. When these young children chew or suck on a toy with phthalates, these chemicals can leech from the toy into the child and enter the child's bloodstream.

They interfere with the national functioning of the hormone system, and they can cause reproductive abnormalities and result in an early onset of puberty. Parents across the country actually have no idea of these risks.

These chemicals have been banned in the European Union, five other countries, and my home State of California, and eight other States are now proposing similar bans. I believe this is the appropriate time for the Federal Government to shield children from these chemicals.

Now, of course, my communications director, like many parents, had no idea that this book contained high levels of phthalates. But it is not just books; phthalates can be found in a variety of soft children's toys such as rubber ducks and teethers like this one.

I ask unanimous consent that I may show you that teether.

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

Mrs. FEINSTEIN. It is this. It is very flexible. It is loaded with these chemicals.

So you can see Max is a little bit older, chewing on a teether. Tests found that teether contained a high level of phthalates.

In 2006, the San Francisco Chronicle sent 16 common children's toys like this teether to a Chicago lab to test whether they contained phthalates. They did, in fact.

The results should alarm parents everywhere. One teether contained a phthalate level of five times the proposed limit. A rubber duck sold at Walgreens had 13 times the amount of phthalates now permissible under California law. The face of a popular doll contained double California's new phthalates limits.

Another study tested 20 popular plastic toys. The results were equally troubling. A Baby I'm Yours doll sold at Target contained nearly 32 percent of phthalates. A toy ball sold at Toys R Us was found to contain 47½ percent phthalates. Three types of squeeze toys—a penguin and two ducks—contained high levels of phthalates. They were also bought at Wal-Mart and Target.

So I would like to, if I can, if I will be cleared to do it, send an amendment to the desk. The amendment would replicate what will be California law in 2008 and ban the use of the chemical phthalates in toys as California has done and eight States are continuing to do.

The European Union banned phthalates in 2006. That is all these countries: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the UK. They have all banned the use of these chemicals in children's toys. Fiji, Korea, and Mexico have also banned or restricted phthalates in children's products.

Beginning next year, toys containing more than trace amounts of phthalates cannot be sold in California stores. My home State was the first State to ban phthalates in toys and other children's products. Governor Schwarzenegger signed the legislation, which, as I say, will become effective in January of 2009. Eight States are following California's lead. Legislation has been offered in Washington State, Maryland, Hawaii, Illinois, Vermont, West Virginia, Massachusetts, and New York.

Unfortunately, toys containing phthalates are still available to children across this country. I think it is time for the rest of the country to follow the lead of California, the European Union, and other nations because without action the United States risks becoming a dumping ground for phthalate-laden toys that cannot legally be sold elsewhere. I think American children deserve better. Parents in every State should be able to enter any toy store, buy a present for their child, and know they are not placing their son's or daughter's health at risk.

This amendment follows the same standards already set by the European Union and California. It bans the use of six types of phthalates in toys. Three of the phthalates are banned from all children's toys; three others are banned from toys children place in their mouths. The amendment clearly states these chemicals cannot be replaced with other dangerous chemicals identified by the Environmental Protection Agency as carcinogens, possible carcinogens, or chemicals that can cause reproductive or developmental harm.

Now the science. The science involving phthalates is still evolving; however, we know exposure to phthalates can cause serious long-term effects. Some of the potential health effects and defects are highly personal and difficult to discuss. They are problems no parent would ever want a child to experience.

I have two anthologies here which I will make available, a phthalates research summary and a paper which summarizes several of the works of science.

Here are some of the effects: Pregnant women with high levels of phthalates in their urine were more likely to give birth to boys with reproductive birth defects. That is a University of Rochester 2005 study. Phthalate exposure has also been linked to the premature onset of puberty in young girls as young as 8 years old. That is a 2000 study published in Environmental Health Perspective. A 2002 study linked phthalate exposure levels to decreased fertility capacity in men. And phthalates found in household dust have been linked to asthma symptoms in children. That is a Swedish study. The evidence that phthalates cause health problems continues to mount. Young children whose bodies are growing and developing and extraordinarily sensitive are particularly vulnerable when exposed to phthalates in the toys around them.

Now, many American toy retailers have already stepped up when it comes to phthalates. I am very grateful for this. Target has already eliminated phthalates from baby changing tables. Late last year, they announced that most toys they sell will be phthalate-free by fall of 2008.

Wal-Mart and Toys R Us announced they will voluntarily comply with California's standard nationwide. These are two huge retailers that will voluntarily comply with the California standard. They informed toy producers that beginning in 2009, they will no longer sell toys that contain phthalates.

These retailers should really be commended. I would like to do so. Thank you, Wal-Mart, thank you Toys R Us and thank you, Target.

This action also underscores the emerging uneasiness about those chemicals, with toy retailers acknowledging that parents do not want to unwittingly provide their young children with toys that could prove hazardous to their health. The amendment I hope to enter levels the playing field in the toy industry, requiring every toy store and manufacturer to comply with the standards being voluntarily put in place.

I do wish to underscore an important point: This voluntary action, while highly commendable, should not take the place of an official regulatory standard.

Candidly, I can't imagine why we have waited this long. We always wait until the States take action. Some manufacturers have marketed products as phthalate free, but tests conducted by independent laboratories have found phthalates. Parents wishing to purchase phthalate-free toys must be able to know what it is they are buying. I firmly believe only a legal standard with the full weight of the law and potential legal consequences behind it will make that guarantee.

I wish to read from a letter from the Breast Cancer Fund:

On behalf of the Breast Cancer Fund and our 70,000 supporters across the nation, I am writing to express our strong support for your amendment to the Consumer Product Safety Commission Reform Act . . . which would prohibit the manufacture, sale, or distribution in commerce of children's toys and child care articles that contain phthalates.

It goes on to describe phthalates. It is signed by Jeanne Rizzo, R.N., Executive Director.

I ask unanimous consent to have this letter printed in the RECORD.

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

MARCH 3, 2001.

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

DEAR SENATOR FEINSTEIN: On behalf of the Breast Cancer Fund and our 70,000 supporters across the Nation, I am writing to express our strong support for your amendment to the Consumer Product Safety Commission Reform Act (S. 2663) which would prohibit the manufacture, sale, or distribution in commerce of children's toys and child care articles that contain phthalates.

Phthalates are a family of industrial chemicals used in a wide variety of consumer products including plastics, nail polish, perfumes, skin moisturizers, baby care products and toys, flavorings and solvents. These chemicals don't stay in the plastics they soften or in the countless other products in which they are used. Instead, they migrate into the air, into food and/or into people, including babies in their mother's wombs. Phthalates have been found in indoor air and dust and in human urine, blood, and breast milk. What's especially troubling about phthalates is that they are powerful, known reproductive toxins that have been linked to birth defects in baby boys, testicular cancer, liver problems and early onset of puberty in girls—a risk factor for later-life breast cancer. The European Union and 14 other countries, including Japan, Argentina and Mexico, have already banned these chemicals from children's toys.

BCF was one of the primary sponsors of AB1108—a bill recently signed into law by Governor Schwarzenegger which made California the first State in the Nation to ban the use of phthalates in toys and other childcare articles. Now 12 other States have followed suit and have introduced—or are considering introducing—legislation to ban phthalates in toys and other products.

Obviously, there is nothing more important to the future of this country, and the world than ensuring our children are healthy today. By supporting your amendment, Congress has the opportunity to protect children from dangerous, unsafe and unnecessary exposures to toxic chemicals in the products they play with every day such as teethers, toys and childcare items. Thank you for your critically important leadership on this issue.

Very truly yours,

JEANNE RIZZO,
Executive Director.

Mrs. FEINSTEIN. Many organizations support the amendment, and I ask unanimous consent to have a list of those printed in the RECORD.

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

Alaska Community Action on Toxics, Breast Cancer Action, Breast Cancer Fund-Center for Environmental Health, Center for Health, Environment and Justice, Citizens for a Healthy Bay, Clean Water Action Alliance of Massachusetts, Coalition for Clean Air, Commonweal, Environment California, Healthy Child Healthy World, Health Education and Resources, Healthy Building Network, Healthy Children Organizing Project, INND (Institute of Neurotoxicology & Neurological Disorders), Institute for Agriculture and Trade Policy, Institute for Children's Environmental Health, MOMS (Making Our Milk Safe), Minnesota PIRG, Olympic Environmental Council, Oregon Center for Environmental Health, Oregon Environmental Council, PODER (People Organized in Defense of Earth & her Resources), Safe Food and Fertilizer, Sources for Sustainable Communities, The Annie Appleseed Project, US PIRG, WashPIRG, Washington Toxics Coalition, WHEN (Women's Health & Environmental Network).

Mrs. FEINSTEIN. It has been a long time since I had a small child, but I used glass nursing bottles, not fancy flexible bottles. I used cloth diapers. The toys were not as flexible as they are today. My daughter grew up fine. One of the real hazards of this society is chemicals and how chemicals are used, and we don't know how they are used. When it comes to children's toys, I didn't know you could make plastic that way, so soft, so flexible. The reason you can is because of all the chemicals added to it. When these chemicals have a toxic factor and you know these chemicals are going in a child's mouth and you know they leach out of the plastic into the child's system, it simply isn't right. We ought to stop it.

People out there know that. People out there want this. I would have liked to have taken the time to have had a committee hearing on this. But candidly, this bill came up. And because this is already law in so many places—the European Union, 5 other nations, California, 8 other States ready to pass it—and you have retailers who understand and are willing to take voluntary action, it seemed to me the legal standard should be established. That is what this bill does.

I call up my amendment which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 4104.

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

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

The amendment is as follows:

(Purpose: To prohibit the manufacture, sale, or distribution in commerce of certain children's products and child care articles that contain specified phthalates)

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

SEC. 40. BAN ON CERTAIN PRODUCTS CONTAINING SPECIFIED PHTHALATES.

(a) BANNED HAZARDOUS SUBSTANCE.—Effective January 1, 2009, any children's product or child care article that contains a specified phthalate shall be treated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the prohibitions contained in section 4 of such Act shall apply to such product or article.

(b) PROHIBITION ON USE OF CERTAIN ALTERNATIVES TO SPECIFIED PHTHALATES IN CHILDREN'S PRODUCTS AND CHILD CARE ARTICLES.—

(1) IN GENERAL.—If a manufacturer modifies a children's product or child care article that contains a specified phthalate to comply with the ban under subsection (a), such manufacturer shall not use any of the prohibited alternatives to specified phthalates described in paragraph (2).

(2) PROHIBITED ALTERNATIVES TO SPECIFIED PHTHALATES.—The prohibited alternatives to specified phthalates described in this paragraph are the following:

(A) Carcinogens rated by the Environmental Protection Agency as Group A, Group B, or Group C carcinogens.

(B) Substances described in the List of Chemicals Evaluated for Carcinogenic Potential of the Environmental Protection Agency as follows:

(i) Known to be human carcinogens.

(ii) Likely to be human carcinogens.

(iii) Suggestive of being human carcinogens.

(C) Reproductive toxicants identified by the Environmental Protection Agency that cause any of the following:

(i) Birth defects.

(ii) Reproductive harm.

(iii) Developmental harm.

(c) PREEMPTION.—Nothing in this section or section 18(b)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261 note) shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any provision of State or local law that—

(1) applies to a phthalate that is not described in subsection (d)(3);

(2) applies to a phthalate described in subsection (d)(3) that is not otherwise regulated under this section;

(3) with respect to any phthalate, requires the provision of a warning of risk, illness, or injury; or

(4) prohibits the use of alternatives to phthalates that are not described in subsection (b)(2).

(d) DEFINITIONS.—In this section:

(1) CHILDREN'S PRODUCT.—The term ''children's product'' means a toy or any other product designed or intended by the manufacturer for use by a child when the child plays.

(2) CHILD CARE ARTICLE.—The term ''child care article'' means all products designed or intended by the manufacturer to facilitate sleep, relaxation, or the feeding of children, or to help children with sucking or teething.

(3) CHILDREN'S PRODUCT OR CHILD CARE ARTICLE THAT CONTAINS A SPECIFIED PHTHALATE.—The term ''children's product or child care article that contains a specified phthalate'' means—

(A) a children's product or a child care article any part of which contains any combination of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP) in concentrations exceeding 0.1 percent; and

(B) a children's product or a child care article intended for use by a child that—

(i) can be placed in a child's mouth; and

(ii)(I) contains any combination of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP), in concentrations exceeding 0.1 percent; or

(II) contains any combination of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate

(BBP), diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP), in concentrations exceeding 0.1 percent.

Mrs. FEINSTEIN. I wish to address a question to the distinguished chairman of the committee who has done fine work on this bill. I would at some point like a vote on this amendment, if possible. I am happy to set it aside if that is helpful and not ask for the yeas and nays at this time, but I do want to vote. I believe children are at stake in this.

Mr. PRYOR. I thank the Senator from California for being so gracious. While she was speaking, I talked to some of the Republican staff. I think they need a little more time and maybe even people on our side need a little more time on the amendment. If possible, I ask the Senator from California to set it aside. We will have a vote at 5:30. We have several Senators who we think will come and speak on the DeMint amendment. We will be working with the Senator as this goes along.

Mrs. FEINSTEIN. I appreciate that. Out of deference to the Senator from Arkansas, I am happy to do so.

I ask unanimous consent that Senators BINGAMAN and MENENDEZ be added as cosponsors of the amendment.

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

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

Mr. PRYOR. I suggest the absence of a quorum and ask unanimous consent that time under the quorum be divided equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. 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. SALAZAR. Mr. President, I rise today to speak on a very important issue that is intended to protect Americans and to protect our children.

Before I make my comments, I wish to give a shout out to Senator MARK PRYOR, who has been leading this effort on behalf of the Senate. I worked with Senator PRYOR during his time as attorney general from Arkansas. If there is one thing that typifies the reality of attorneys general, they are protectors of the people. MARK PRYOR, as attorney general of Arkansas, was a great example of a protector of the people of Arkansas, and he has continued that fine tradition in the Senate by moving forward in the Commerce Committee and being the lead person in putting together this legislation that will protect American consumers, in particular American children.

I wish to begin today by sharing a story about a brave 4-year-old boy from Severance, CO, by the name of Tegan Leisy. Tegan and his family found out about toy hazards the very hardest of ways.

Last year, when Tegan was only 3 years old, he suddenly and inexplicably became very sick. He was vomiting and in a lot of pain. Tegan's parents rushed him to the emergency room, and the doctor took a series of x rays. The x rays showed something in Tegan's stomach that looked like a metal object. The doctors said the object would pass in 72 hours and not to worry. Unfortunately, it did not pass.

Tegan remained in severe pain, so Tegan's parents took him back to the hospital. This time they admitted Tegan, and they held him for observation. Over the next 2 days, the doctors x raying Tegan found there was an object inside his stomach that was not moving.

On the third day, the surgeon decided to operate. What did they find in the 3-year-old young man's stomach? They found six magnets—six magnets—from toys that Tegan had swallowed. The magnets had stuck together, and it created 11 holes in Tegan's intestines. The doctors had to remove 6 inches of his intestines that day during surgery.

Think of that, Mr. President. Think of that, all those who are watching this debate on the Senate floor today. A 3-year-old boy had to have portions of his intestines removed because he swallowed pieces that had come off his toys. Tegan is, in fact, one of the lucky ones. He is alive because of the good work of doctors who saved him and because his parents helped him catch the problem on time. Not all kids in America are that lucky today.

Congress created the Consumer Product Safety Commission, now more than 30 years ago, to protect American consumers against death or injury from unsafe products. However, the agency is grossly underfunded and understaffed. The CPSC estimates that products it is authorized to regulate are related to 28,200 deaths and 33.6 million injuries each year. Over 28,000 deaths a year. Yet the agency only gets $63 million a year to carry out its mandates.

As a result, stories such as Tegan's are commonplace across America.

In the last few months, newspapers have run stories on hundreds of cases of unsafe chemicals in toothpaste, contaminated dog food, and toys tainted with toxic levels of lead.

I support the CPSC Reform Act for several reasons. First, this bill would restore funding for the CPSC so that it can stop dangerous products and toys from even reaching the marketplace. If a dangerous product reaches the shelf, it is often too late.

Second, the bill finally takes steps to ban lead in children's toys. Exposure to lead can cause serious neurological and developmental health problems in children. In the past year, millions of children's toys have been recalled for containing hazardous levels of lead. The toys have included metal jewelry, train sets, and Halloween costumes. I see no reason why Congress would pass a Federal law banning lead in paint, but not in children's toys.

Third, the CPSC Reform Act would grant State attorneys general the ability to bring a civil action on behalf of its residents to obtain injunctive relief against entities that the Attorney General believes has violated a consumer product safety. I had the great privilege of serving as Colorado attorney general for 6 years. As an attorney general, you want to do everything in your power to protect the citizens of your State. The narrowly tailored watchdog power granted in this bill would have given me another tool to help protect the citizens of Colorado from unsafe and hazardous products.

There are many other fine provisions in the CPSC Reform Act. I strongly urge my colleagues to support the bill and to help restore American confidence in the safety of the toys and other products that are sold in the marketplace. We must do what we can to prevent parents across the country from experiencing the nightmare that Tegan's parents experienced.

This Consumer Product Safety Commission Reform Act will take major steps in moving forward the solution to an issue that is facing American consumers every day in our Nation.

I conclude my statement by making this comment: There has been a lot of discussion here about a particular provision of this legislation that gives attorneys general the opportunity to come in and to enforce the law. It is appropriate whenever you have a situation such as this to throw more cops into the situation to try to make sure consumers are protected. This is an area of law where attorneys general from across the country—both Democrats and Republicans—have been waging the war on behalf of consumers for a very long time. They do not do it based on Republican or Democrat. They do it based on what is good to protect the American consumer.

So for those colleagues on the other side who will argue against giving this power to the attorneys general of America—I would say they, frankly, are mistaken, that when you look at the history over the last 30 years of attorneys general taking the lead role in terms of enforcing the laws of our country to protect consumers, this is exactly the kind of situation that calls out for giving that power to the attorneys general of the United States of America.

So I am hopeful we can come together as a Senate, as a Congress, and push legislation that gets to the President's desk and that he signs into law so we protect the kids of America, we can protect the consumers of America, and keep situations such as the one I described in Colorado from occurring again.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent to have printed in

the RECORD a letter, dated February 29, 2008, from the National Association of State Fire Marshals. It is addressed to Senator INOUYE and Senator STEVENS, where they endorse this legislation, this Senate bill.

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

NATIONAL ASSOCIATION OF STATE FIRE MARSHALS,
Washington, DC, February 29, 2008.

Hon. DANIEL K. INOUYE,
Chairman, Senate Committee on Commerce, Science and Transportation, Dirksen Senate Office Building, Washington, DC.

Hon. TED STEVENS,
Vice Chairman, Senate Committee on Commerce, Science and Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS INOUYE AND STEVENS: The National Association of State Fire Marshals (NASFM) consists of state public safety officials committed to the protection of life, property and the environment from fire and other hazards.

NASFM deeply appreciates all you have done to produce a bi-partisan substitute for the Consumer Product Safety Commission Reform Act (S. 2663), and we support the substitute language without reservation. However, NASFM believes that these compromises go far enough. We would prefer that this legislation be settled in the next Congress if further reductions in fines and federal and state authority become necessary as a result of floor amendments or in negotiations with the House of Representatives.

Sincerely,

JOHN C. DEAN.

Mr. PRYOR. 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. SALAZAR. 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. SALAZAR. Mr. President, I ask unanimous consent that I be listed as an original cosponsor of this legislation.

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

Mr. SALAZAR. 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. NELSON of Florida. 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. NELSON of Florida. Mr. President, I understand we are trying to divide the quorum calls, so until some other Senator comes and wants to speak, I will seek the appropriate parliamentary position.

FLORIDA DEMOCRATIC PRIMARY

But I wish to take this opportunity to speak about the bill, the Consumer Product Safety Commission. I also wish to speak about another unrelated subject, but one in which we are having a potential train wreck coming on the American political scene if, in fact, the worst were to happen, and we did not have a nominee in the Democratic Party for President all the way down into late August, going into the convention in the State of the Presiding Officer—Denver, CO—where the Democratic National Convention will be. Because then the issue would be so raw as to whether to seat the Florida and the Michigan delegations at the convention.

Now, the reason I am making these remarks is I have talked to a number of our colleagues, and what I am about to tell you our colleagues don't know about the State of Florida in this fracas that is going on. Because most people think it was the Florida Democratic Party that suddenly got all riled up and shifted the Democratic primary in Florida ahead of the permitted time of February 5 and shifted it a week earlier to January 29. Not so. It was the Republican Legislature of Florida passing a law that was signed into law by the Republican Governor that changed, by law, Florida's date from its previous date of a primary in March to January 29. At the time the legislature did this, a year ago, in the annual legislative session, in early 2007, the rules of the Democratic National Committee said any State moving ahead earlier than February 5 would be penalized with half of its delegates taken away. Interestingly, that is what the rules of the Republican National Committee said as well. But when the Florida Legislature moved the date—and by the way, here is another fact that my colleagues of the Senate are surprised about when I tell them. When the bill came forward, it was an election reform bill, an election machine reform bill that was clearly going to pass on final passage in the Florida Legislature.

It had a provision put forth by the Republicans in the legislature of moving the primary date early, to January 29. The Democratic leader of the Florida Senate offered an amendment to put it back to comply with the rules of the Democratic National Committee to February 5. That amendment was defeated, and then the bill went on to final passage since the main part of the bill was election machine reform—something we are sensitive about in Florida, by the way—and the Governor signed it into law, thus making part of the bill January 29. But then, once it became the law—and nobody is going to change that in Florida; that is the law. That is the date of the election. That is the date around which all of the State election machinery would operate, and the State of Florida would, in fact, pay for that election. And indeed they did—$18 million worth of paying for.

Then an interesting thing happened on the way to this crisis. The Republican National Committee said: No, Florida, you moved your date early. You broke the rules. Our rules say we are going to take away half your delegates. That is exactly what the Republican National Committee did. The Republicans went on to have a primary election, realizing they were only going to get half their delegates. But that is not what the Democratic National Committee did. The Democratic National Committee rules said: We are going to take away half your delegates. But over the course of the summer, some on the Democratic National Committee got so riled up about Florida jumping ahead of South Carolina, which wanted the privilege of being the first Southern State to have a primary, that they convinced the Democratic National Committee to exact the full measure of punishment—not what the rules called for, to take away half the delegates—but instead take away all the delegates.

Then, another interesting thing happened. Those who wanted to punish Florida decided to concoct a pledge that they would force all of the Presidential candidates to sign, and the pledge said they would not go into Florida to campaign. Campaigning was defined as having staff, having an office, using telephones, even holding a press conference. But, by the way, there was an exception. They could go into Florida and raise money.

So my colleagues can see how this has created a highly distasteful bad taste in the collective mouths of four and a quarter million registered Democrats in Florida, almost half of whom turned out on election day, January 29, when they were being told: Your vote is not going to count. Well, it is pretty precious to us in Florida that our vote count, and our vote count as intended, and 1.75 million Florida Democrats turned out. That was far in excess of twice the number that had ever turned out in any Presidential primary held in the State of Florida before. The Democratic National Committee still says they are not going to allow Florida's votes to be counted. Well, all of this fracas is coming full circle.

Now, by the way, it wasn't that a lot of us didn't try. A whole bunch of us in the Florida congressional delegation first tried to work a compromise. We tried to say if everyone would get in the order that they wanted, the first four original States could end up being the first anyway. But, no, they were not about to listen to a compromise. This is back in the summer. This is in August. This is in early September, before the final decision became effective in September from the DNC of cutting off all the delegates in Florida. Congressman ALCEE HASTINGS and I even filed suit in Federal district court against Howard Dean and the Democratic National Committee on the constitutional arguments that due process and equal protection of the laws under the Bill of Rights in the Constitution was violated. The Federal judge who heard the case in December decided he bought the argument of the DNC, that a court case from the 1970s—a Wisconsin case, in fact—applied, and that

the DNC could do whatever it wanted in the setting of its rules.

So what we come to is an unfortunate turn of events where, if the race is close, and delegates pledge delegates and decisions of superdelegates going into the summer, and if Florida and Michigan, which have a different set of circumstances, which are both being denied, were to make the difference, and if they are not seated at the Democratic National Convention, it is finally dawning on the partisan party leaders that how are Florida and Michigan and the people of those States going to feel 2 months hence after the Democratic National Convention, when election day, November 4, comes around. That is starting to make some people very nervous.

So I call on all the reasonable heads—as the Good Book says, come let us reason together—to honor the fact that almost 2 million Florida Democrats went and voted and they expect their vote to count and count as they intended it to count. I call on the reasonable leadership to come together for the sake of unity and allow us to go into a convention in a unified fashion so that we can have a very legitimate election process for the leader of our country for the next 4 years.

I understand there are other Senators who wish to speak, so I will defer my comments about the Consumer Product Safety Commission bill, of which I am a cosponsor, until a later time.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 4095

Mr. DEMINT. Mr. President, I would like to speak for a few minutes on my amendment that I believe we will be voting on at 5:30 today. This amendment brings up the House-passed consumer product safety bill. This was a bill that had extraordinary bipartisan support. It was led by Speaker NANCY PELOSI and Chairman DINGELL and Ranking Member BARTON. They worked together for a number of weeks to create a bill that did a lot of the things we had hoped to do in the Senate, and Chairman DINGELL has encouraged us to take up the House bill and pass it today.

I see Senator STEVENS has come to the floor, and I know he wants to speak on this bill. I would be glad to yield my time or part of my time and then follow Senator STEVENS, if he would like me to. I think we have the balance of the time until 5:30 together, and I understand the Senator from Alaska needs 5 minutes. I yield 5 minutes to Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, the Senator is very generous for sharing his time. I have come to the floor to speak on his substitute bill.

I hope the Senate realizes this is a complete substitute, and it will take the House bill and replace it for the actions that the Senate has taken through our Commerce Committee and on the Senate floor so far. While there are some portions of the House bill that are positive, and I am pleased to say we will be happy to work with them in conference. I must oppose this amendment because it would gut this entire bipartisan compromise that is now before the Senate.

Consumer product safety has been before the Senate before, and we have not been able to get to this point. We have gotten to this point because Senator PRYOR, Senator INOUYE, Senator COLLINS, myself, and others have worked together to bring to the Senate a bill that has positive safety provisions that are not currently in the House bill. I urge my colleagues to vote no on this amendment because what we have done in this bill will provide some very positive changes that I believe the House will be willing to accept in conference. The difficulty is this amendment would not include those additional protections. We would have to go back and start all over again in the legislative process to address the additional provisions we have added to this bill.

I believe we can get through the amendment process in the next couple of days, and it is my hope we can go to conference and this bill will be sent to the President as soon as possible. I believe the country is ready for a change and a reemphasis on consumer product safety, particularly as it relates to children.

I am the father of 6 children, grandfather of 11, and I hope to have more—at least grandchildren. That is supposed to be funny. I think we ought to be able to take this compromise bill to conference, and I welcome that. I promise I will confer with my colleague with regard to the changes we might make in conference, but this is not the time to end this bipartisan process.

If there is one thing the Senate needs, the one thing Congress needs, it needs bipartisanship to move forward on the business we should act on during this Congress. This is a product of that, the product of a long, hard conference on a bipartisan basis.

I urge my colleagues to vote no on this amendment. It is my hope the Senate will allow us to go to conference on the bill on which we worked so hard.

I thank the Senator for his courtesy.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I agree with a number of points the Senator from Alaska just said, particularly the importance of working in a bipartisan fashion on a bill as important as consumer product safety. That is exactly what I am proposing with this amendment because this is something that not only had bipartisan support in the House, it had unanimous support in the House.

The Senator from Alaska also mentioned the importance of moving quickly. He suggested that my amendment might actually slow this bill down. In fact, the opposite is true. If we were to adopt this amendment, the consumer product safety bill could go to the President tonight. This is a bill that has been thoroughly vetted and includes a lot of good provisions about which I would like to speak. But even my colleagues who would like to vote for the final Senate bill—I don't know whether my amendment will be adopted or not tonight—can still vote for the Senate bill even if they vote for the House bill.

Voting for this amendment is voting for a good, clean, bipartisan consumer product safety bill that we might not have at the end of this process. As all of us know, the longer this debate goes on, the more nongermane amendments will be added to the bill, and the possibility of this bill being passed and going to conference and actually coming out with a bill we can all support—we don't know what the odds of that are. But we do know if we pass the House version of the bill tonight, we will have a new consumer product safety bill that does a number of the things all of us want. I will mention a few of those.

One of the items we talked about is not just to count on companies to test their own product safety but to have a third-party testing, particularly of children's products, for lead and other hazards. The House bill sets that up.

We also require manufacturers to put distinguishing marks on their products so that in the event of a recall, we would know how to identify the products that are out in the marketplace that need to come back. Consumers would know which ones are safe and which ones are not.

It also replaces the aging testing labs the Commission uses now and installs a state-of-the-art testing system that will help us determine more quickly which products are safe and those that are not.

We create a new system of advising the public when we have found a safety problem through using the Internet, radio, and television, and we preserve the strong relationship between industry and the Consumer Product Safety Commission, so we get the information from them on a constant basis if there are any safety problems or even improvements in safety in different product categories. And we restore the full panel of Commissioners to the Commission, which is not in place right now.

The House bill had support from a total range of Members. From the most conservative Republican to the most liberal Democrat, they agreed to come together without further delay and pass a bill that we need.

The groups from the outside that look at these issues, particularly the manufacturer groups, such as the National Association of Manufacturers and the Chamber of Commerce, that represent millions of jobs across this country—and that is really what we

are talking about here. The Senate bill would actually put an additional burden on American-based manufacturers that our foreign competitors do not have. If there is one thing we do not need to do as a Congress, it is to make it even more difficult to do business in this country, to put our workers at a further disadvantage to workers from overseas by adding an unnecessary burden to this consumer product safety bill, provisions that do not necessarily improve safety but do make it increasingly difficult to be competitive as an American manufacturer. We need not do that.

The Senate bill has some problems, and we have a number of amendments we can add. Right now, my amendment has the support of the National Association of Manufacturers, chamber groups; business journals, such as the Wall Street Journal, are supportive of this amendment, and they are not supportive of the Senate version, frankly.

So we have a better alternative tonight. I encourage my colleagues to set aside partisanship, to set aside maybe particular special interests we may want to do some favors for in the Senate bill. The House set that aside, and they did the right thing. That is really what I am encouraging my colleagues to do tonight: Do the right thing.

This is not a bill I created. This is a bill which is supported by Speaker NANCY PELOSI and Chairman DINGELL, as well as the Republicans on the House side. We probably will not have another opportunity this year as a Senate to vote for a bill that has unanimous support in the House. Yet we have it on the floor tonight. I encourage my colleagues: Do the right thing. Let's practice what we preach for once and be bipartisan and support an amendment that will get a consumer product safety bill to the President right away so we can start the implementation process.

Mr. President, I appreciate the time. I know my colleague, the chairman, wishes to speak before the vote. I yield the remainder of my time. He can have the rest of that time. I yield back my time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Senator from South Carolina for his gracious allotment of time and tell him how much I appreciate his spirit of cooperation and trying to come together and find as much common ground as we can on not just his amendment that is pending but other amendments and other matters. He has been a true gentleman in how he has conducted himself, and I appreciate that.

I wish to say a few words about the DeMint amendment. Really, all the DeMint amendment does is it cedes us to the House version of the bill. It is significantly different. As I said before, the House, during their process, basically took about half, maybe a little more of the Senate committee bill and basically cut and pasted it into their legislation. So we have a little bit of, I guess you can say pride of authorship in the House version. There are a lot of good provisions in the bill.

The House version is different in several material ways. I went through some of those before, but let me touch on about 8 or 10 more items right now. And I can do this very quickly.

First, the Senate bill gives a financial responsibility in the sense that it requires, under certain circumstances, manufacturers to put funds in escrow or to get insurance in the event of a recall. It is not automatic, but it allows the CPSC to do that under cases that might warrant that action. The DeMint amendment takes that away.

The Senate bill has a specific provision on portable gasoline containers and makes it clear that there will be a national standard. Again, the DeMint amendment takes that away.

The Senate bill has several provisions on all-terrain vehicle safety. It sets a national standard. It sets all kinds of benchmarks that need to be met, and it makes the Federal law very clear about ATV safety standards in this country. Unfortunately, the DeMint amendment takes that away.

The Senate bill also contains a garage door opener standard. We all know how dangerous garage door openers can be. They do not have to be. There is technology available. We set a national standard which is a good belt-and-suspenders type of standard. Again, we are talking about garage doors that have a track record of causing injury, in some cases death, not just to children but mostly to children. The DeMint amendment takes that standard away.

The Senate bill also contains a provision on carbon monoxide poisoning, specifically with generators. Again, this has been a problem, not just with Katrina and Rita and other situations such as those but just generally for people who use these generators in various contexts. There has been a carbon monoxide poisoning problem. The Senate bill takes care of that problem. Unfortunately, the DeMint amendment takes that away.

The completion of a cigarette lighter rulemaking is something that has been pending with the CPSC for quite some time. We clarify that there will be a national standard. We set that standard. We pretty much tell the CPSC what needs to happen with this issue. Unfortunately, the DeMint amendment takes that away.

The last point I want to make—there are several other points I could make, but the last one I want to mention is under certain circumstances, the Senate bill provides for the destruction of imported products that violate our safety standards. This is important because if we do not destroy those products, somehow, some way, oftentimes they end up in the U.S. market even though they are not supposed to, but also we see the dumping of these products in Third World countries. If we do not take a principled stand on this issue, we are just going to be dumping our problems on other countries. Unfortunately, the DeMint amendment takes that away.

I am certainly not critical of Senator DEMINT or critical of the House. The House came together in a bipartisan way. The bottom line is, we just have a stronger bill in the Senate. It is a bill of which we can be proud. It is a bill people in our home States would love to see us pass. I tell you, most people in Arkansas, most people around the country in the other 49 States probably could not tell you what CPSC stands for, but they could tell you they want stronger and tougher protections when it comes to imported products. They want to make sure someone is watching to make sure the toys they buy for their children and grandchildren are safe. They want to make sure that someone in the Federal Government is watching to make sure products, such as lighters, are safe and products as simple as gasoline cans are safe and that when you use a portable generator, you do not get carbon monoxide poisoning. People in our country expect those kinds of standards, and that is exactly what the Senate bill does. It is good not just for the CPSC, but it is good for this country.

As I have said before, we have several specific differences I have just articulated, differences between the House version and the DeMint amendment, which is basically the House version. The bottom line is, the Senate bill has more transparency, more enforcement, and more comprehensive reform. This bill is something of which we can all be proud. Not that we go home and brag to people in our home States about getting something right up here, but this will give every Senator in this Chamber an opportunity to go to their home State and talk about something good the Senate is doing for this country, something that is nonpolitical, something that is bipartisan, something that is good public policy, and that is the Senate bill.

Again, the House bill is good. It is OK. It is an improvement over current law. I do not have any criticism of our House colleagues for doing what they did, I really do not, especially considering that about half of that bill is really the Senate committee bill. Regardless of that, I do not have any criticism of them, and I do not want anything I have said to be interpreted as criticism. But the Senate bill is stronger, it is better, it is more comprehensive, it is better for the American people, and I think it will, over time, lessen the amount of litigation, and I think over time you will see fewer recalls and you will see consumer confidence in products they buy go up.

Overall, this is a very good bill for the people of this country. I encourage my colleagues to vote no on the DeMint amendment, and on final passage of the Senate bill, whenever that happens—tomorrow or the next day—I

encourage all my colleagues to vote yes.

Mr. President, I yield the floor, and 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. 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 move to table the DeMint 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 assistant journal 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 necessarily absent.

Mr. KYL. The following Senator is necessarily absent: 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 57, nays 39, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—57

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

NAYS—39

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

NOT VOTING—4

Byrd	McCain
Clinton	Obama

The motion was agreed to.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. ENSIGN. Mr. President, on rollcall vote No. 37, I voted aye. It was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER (Mr. MENENDEZ). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWN. I ask unanimous consent to speak as in morning business.

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

MOTOR COACH SAFETY

Mr. BROWN. Mr. President, last Sunday marked the 1-year anniversary of a tragic bus crash outside Atlanta, GA, which was transporting members of the Bluffton University baseball team from my State of Ohio to play baseball in Florida. The crash took the lives of Tyler Williams and Cody Holp, Scott Harmon, Zack Arend, and David Joseph Betts. The driver, Jerome Niemeyer, and his wife Jean were also killed in the crash. Most of the other 33 passengers were treated for injuries.

While the investigation into the cause of the crash is ongoing, one thing is clear: Stronger safety regulations could have minimized the fatalities and injuries resulting from the crash.

John Betts, who lost his son in this accident, sees upgrading the safety laws for motor coaches as an opportunity to save the lives of future riders. One year ago, Mr. Betts made a promise to his late son. He promised to dedicate himself to motor coach safety. Thus, through this tragedy, a movement began to adopt commonsense safety regulations that lower the risk of injury or fatality in accidents. Mr. Betts launched a Web site to educate the public about motor coach safety. He agrees to do regular interviews so he can use his own heartbreaking experience to gain momentum for his cause.

Mr. Betts visits his son's grave twice a day. Of his visit the other day, he said:

> I just asked him to give me strength, give me wisdom, give me the words to keep fighting to make sure something good comes from something so bad.

Last fall, Senator KAY BAILEY HUTCHISON of Texas and I joined this effort, introducing the Motor Coach Enhanced Safety Act. This bill, which has the support of Mr. Betts and countless safety advocates, would codify recommendations from the National Transportation Safety Board. It surprised me—and it will surprise my colleagues—that the safety improvements in this bill are not already standard safety practice. They include such basic and logical safety measures as the use of seatbelts and fire extinguishers. These are not new technologies. These are safety features widely used in other transportation equipment. They are commonsense. They save lives. They should be a given, not some distant goal.

Many of the injuries sustained in motor coaches could be prevented by incorporating high-quality safety technologies that exist today but, unfortunately, are not widely used, such as crush-proof roofing and glazed windows to prevent ejection.

Unfortunately, the Bluffton University baseball team's bus crash was not an isolated incident. Senator HUTCHISON quickly pointed to the many accidents in Texas while this bill was being drafted, such as the crash involving the Westbrook High School girl's soccer team in 2006.

As a father of four and recently a grandfather, it upsets me to know motor coaches are such unregulated vehicles that our kids don't have the option to buckle up. The tragedy of these and other motor coach accidents has created motivation and hope in Mr. Betts and others for increased safety in this industry in the future. It is our job to take that motivation and that hope and turn them into action.

I urge my colleagues to consider the Motor Coach Enhancement Safety Act. Passage of this bill would undoubtedly mean saved lives in the future. It is my hope in the future parents will not have to endure the anguish and the rest-of-his-life grief that John Betts and other families' members have experienced.

For those who suffered from the tragedy in Atlanta of the Bluffton baseball team on March 2, 2007, I offer my thoughts and prayers.

Mr. COCHRAN. I ask unanimous consent to speak for up to 5 minutes as in morning business.

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

AIR FORCE AERIAL REFUELING TANKER SELECTION

Mr. COCHRAN. Mr. President, I was pleased to learn last week that the Air Force had made a selection for the development and procurement of its new aerial refueling tanker fleet. I am told that the replacement of the 1950s-era fleet of KC–135s had been the Air Force's No. 1 procurement priority. By the time the last one is replaced, it will be over 80 years old. It is good to see the Air Force move forward to replace these aging aircraft.

GEN Arthur Litche, the commander of Air Mobility Command, whose mission it is to provide rapid global mobility and sustainment for America's Armed Forces, recently said:

> Tanker modernization is vitally important to national security.

I have been told this acquisition selection process is the most documented selection process the U.S. Air Force

has ever conducted. Last Friday, Secretary of the Air Force Michael Wynne said:

> Today's announcement is the culmination of years of tireless work and attention to detail by our Acquisition professionals and source selection team, who have been committed to maintaining integrity, providing transparency, and promoting a fair competition for this critical aircraft program.

The Air Force advises us that 25,000 American workers at 230 U.S. companies located in 49 States will support the assembly of these aircraft. The winning proposal was submitted by the team led by Northrup Grumman and includes EADS North America and General Electric Aviation. It was judged to provide the best value for the U.S. Air Force and for the U.S. taxpayer. General Litche said the winning proposal gives the military more passengers, more cargo, more fuel to offload, more availability, more flexibility, and more dependability.

I am pleased to congratulate the winners of the competition, and I look forward to the day when this new aircraft joins the fleet.

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

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

MORNING BUSINESS

Mr. PRYOR. I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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 legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. 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 COMMISSION REFORM ACT

Mr. NELSON of Florida. Mr. President, I wish to speak as to why the Consumer Product Safety Commission Reform Act is so desperately needed.

Most parents, and consumers for that matter, will not forget in the past—and it was as recent as this past summer—the huge amount of toy recalls. There were children's jewelry and toys that were covered in lead paint. There were toys with detachable magnets that can cause fatal intestinal obstructions. There were stuffed animals with small parts that can detach and become a choking hazard. There was a children's craft kit containing beads that when swallowed became ingested into the child's digestive system; and what came out of those beads was the same chemical compound, believe it or not, as GHB, which is the date rape drug.

The Laugh & Learn Bunny became a choking hazard. This magnetized building set, as shown on this chart—over 4 million units were sold—those magnets became ingested into the child's digestive track. Thomas the Train, over 1.5 million units were sold, and lo and behold those were painted with lead paint. And then the Barbie accessories—675,000 units of those were sold—had lead paint. And there were other toys. In fact, one of them was some kind of little doll where the nose came off. It was exactly the size that could get into a child's windpipe and cause them to choke to death.

As a matter of fact, one of the children's hospitals in Florida I visited about this very thing gave me a plastic thimble of about the size they said they hand out to the children's parents because they want them to see the size of anything that could detach—if it did from a toy—that is a choking hazard for a child.

So in visiting with this team of emergency room doctors, they showed all these things in real life to me and told me about the invasive surgery that then they had to do on children that was traumatic for a child who is 4 or 5 years old.

Then, I had the very sad duty to visit with a momma and a daddy in Jacksonville, who left two of their children in a room with a disco ball toy. What happened? It became overheated because it was illuminated. It became overheated. It caught fire, and it emitted enough carbon monoxide to kill both the children.

Now, these incidents simply should not be happening. Yet with this bill Senator PRYOR is managing on the floor, we can better ensure American parents do not have to face another summer of recalls.

So this act is going to do a number of things. It would increase the number of professional staff who work at the Consumer Product Safety Commission. It would ensure consumer access to information about these products. It would eliminate lead from children's products. It increases civil penalties for wrongdoers. And it protects employees from retribution who report violations of consumer product safety. This bill also requires the first mandatory standard for toy safety, and it requires third-party testing of toys and other children's products.

What has come to the floor is a combination of different legislation. What this Senator had contributed was S. 1833, the Children's Products Safety Act, which would require third-party testing of products intended for children aged 7 and under. I am very pleased it has been included in this overall package.

There are two provisions that are critical. First, the third-party testing provision ensures that all of those toys and products undergo testing by a third party prior to entering the stream of commerce. Any that did not have the third-party testing would be banned from importation. Now, why is this necessary? Because we were letting the Chinese industry police itself, and it wasn't doing it, and the Government of China wasn't doing the inspecting. So we had the substandard and indeed unsafe toys coming to the American consuming public.

Second, this bill would set the first mandatory safety standards by adopting the ASTM—the international consumer safety specifications for toy safety. That is often referred to as standard F–963. ASTM is a nonprofit standard-setting organization. It is an independent organization that involves the CPSC—the Consumer Product Safety Commission—consumer groups, and the industry in toy standards and the development process. The standards contain 100 other toy safety specifications, including testing for shock points, flammability, toxicity, and noise.

These standards, in their development process, also provide a fast, collaborative process to address these changing conditions. So when the detachable magnet issue arose last year, the ASTM standards development team recognized the seriousness of the issue. They came up with a new magnet safety standard 9 months after the problem was first reported.

Well, under the provisions of the bill, the updates to the ASTM standard will automatically be incorporated into the Federal toy safety standard, unless for some reason the CPSC would determine that it wasn't going to improve the public safety. So as a result, the consumers are going to have the benefit of new toy safety standards immediately after the adoption of this legislation.

Taken together, these provisions will ensure that toys will be tested by a rigorous third-party testing process that is constantly updated to address new and emerging hazards to our children. Third-party testing has been endorsed by a number of consumer groups and a number of the manufacturers that realize we have a problem here. So we need to build a consensus and get this legislation passed.

Last year, over 46 million children's products were recalled—can my colleagues believe that, 46 million recalled—and almost a fifth of those were recalled after a child was seriously injured or killed. It is not enough just to recall these toys; we need to make sure they never enter the stream of commerce in the first place, and this bill provides that safety.

I wish to say there is also something in here about generators, portable generators. If you live in a coastal State such as mine and you get hit by a big hurricane—and especially gasoline stations are learning they need them because people need to be able to drive