

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, July 30, 2008.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to work with you on changes to H.R. 1108, the Family Smoking Prevention and Tobacco Control Act, regarding provisions in the bill dealing with Indian tribes which are within the jurisdiction of the Committee on Natural Resources.

Because of the cooperation and consideration that you have afforded me and my staff in developing these changes to the bill, I did not insist on a sequential referral of H.R. 1108 even though the legislation included language within the jurisdiction of the Committee on Natural Resources. Of course, this waiver does not prejudice any existing or future jurisdictional claims over these provisions or similar language. I also reserve the right to seek to have conferees named from the Committee on Natural Resources on these provisions, and request your support if such a request is made.

I would ask that you place this letter into the Congressional Record during consideration of the measure on the House floor.

Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

With warm regards, I am

Sincerely,

NICK J. RAHALL, II,
Chairman, Committee on Natural Resources.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 30, 2008.

Hon. NICK J. RAHALL II,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR CHAIRMAN RAHALL: I write regarding H.R. 1108, the Family Smoking Prevention and Tobacco Control Act. The bill provides for the regulation of tobacco products by the Food and Drug Administration (FDA).

The bill reported by the Committee on Energy and Commerce requires the Secretary of Health and Human Services to ensure that the provisions of the bill, the amendments made by the bill, and the implementing regulations are enforced with respect to the United States and Indian tribes. I acknowledge the jurisdictional interest of the Committee on Natural Resources in this requirement as it relates to Indian tribes, and I appreciate that the Committee did not exercise its right to a sequential referral of the bill.

I agree with you that the decision to forgo a sequential referral of the bill does not in any way prejudice the Committee on Natural Resources with respect to its jurisdictional prerogatives, including the appointment of conferees, on this bill or similar legislation in the future.

I will include this letter in the Congressional Record during consideration of the bill on the House floor. I appreciate your cooperative attitude regarding this landmark public health legislation.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. STARK. Madam Speaker, tobacco use is the Nation's leading cause of preventable death, and, without aggressive help from Congress, will continue to be in the foreseeable future. That is why I rise today in strong support of the Family Smoking Prevention and Tobacco Control Act, a bill that will give the FDA extensive new authority to regulate tobacco products.

I am alarmed by CDC reports that state that 8.6 million Americans have a serious illness caused by smoking, and that close to 440,000 people in the United States die prematurely from either smoking or contact with second-hand smoke. However, I am particularly shocked by statistics that demonstrate that smoking rates among high school students stayed the same from 2003–2007. With all the awareness campaigns targeted toward youth, this rate should have dropped. These statistics are unacceptable, and it is clear that Congress needs to step in.

The Family Smoking Prevention and Tobacco Control Act allows the FDA, among other things, to restrict tobacco advertising and promotions to children, force manufacturers to obtain approval before making reduced-risk product claims, form standards to reduce or eliminate toxic chemicals within tobacco products, and recall unreasonably harmful tobacco products. This piece of legislation is a long sought after bipartisan compromise.

I trust that my colleagues will join me in supporting this bill. Tobacco does not just affect individuals who smoke; it affects our children's futures and the economic prospects of our Nation. Each year because of tobacco use we lose more than \$96 billion in medical costs and \$97 billion as a consequence of lost productivity. It's time for us to stamp out this burning cigarette, and voting for the Family Smoking Prevention and Tobacco Control Act will be the first step.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill, H.R. 1108, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BARTON of Texas. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONFERENCE REPORT ON H.R. 4040, CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008

Mr. DINGELL. Madam Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 4040) to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

The Clerk read the title of the bill. (For conference report and statement, see proceedings of the House of July 29, 2008 at page H7194.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. DINGELL. Madam Speaker, I ask unanimous consent that the debate on this motion be extended by 10 minutes on each side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. DINGELL. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to insert extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, it is with a great deal of pride and pleasure that I bring before the House a strong bipartisan bill that will protect the American public from unsafe consumer products. I have some kudos for my colleagues. I want to commend the chairman of the subcommittee, my dear friend, Mr. RUSH, for his outstanding leadership in the handling of this legislation. I also want to praise my dear friend, the ranking member of the full committee, Mr. BARTON, and all of the House conferees who served so well in working out a difficult bill. Working with them has been a privilege and a pleasure.

The House passed H.R. 4040 without a dissenting vote in December of last year, and the House followed with its amendment in March of this year. The resulting conference report represents the most significant overhaul of U.S. consumer product safety laws since the creation of the Consumer Product Safety Commission some 40 years ago under the sponsorship of myself and my dear friend from California, John Moss.

Under H.R. 4040, the CPSC will receive substantial funding and staff increases, greater laboratory and computer resources, and a stronger statutory mandate going forward. Industry-sponsored travel by CPSC commissioners and staff will be banned. The presence of lead and dangerous phthalates in toys and other products of children up to age 12 will be banned.

CPSC will be required to establish a publicly accessible data base to help consumers report and learn about deaths and serious injuries caused by consumer products. Toys and other children's products will be subject to premarket testing by certified laboratories.

□ 1700

The conference agreement also strengthens protections against the import and the export of dangerous products and enhances the tools for removing recalled products from store shelves.

To deter wrongdoing, it takes a number of important steps. It increases the

civil and criminal penalties to be sought by CPSC. It authorizes injunctive enforcement of Federal law by State attorneys general. It preserves State common law remedies and California's Proposition 65. It provides important protections for private sector whistleblowers.

I want to conclude by pointing out that this is a bipartisan bill and that it was not only the work of my Republican colleagues, but also my Democratic colleagues. I also want to point out that there was splendid work done by my good friend, Mr. BARTON, in his leadership in this matter.

The Republican staff and the Democratic staff worked countless hours and did superb work. Brian McCullough, Will Carty and Shannon Weinberg on the Republican side; and the Democratic staff, Valerie Baron, Andrew Woelfling, Christian Fjeld and Judy Bailey did extraordinary work.

In particular, I want to commend my dear personal friend, Consuela Washington, for leading the staff in such a splendid fashion. From the financial markets to the store shelves, she has been working on legislation to protect consumers for nearly 29 years.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. I yield myself an additional 30 seconds.

I am grateful for the extraordinary legislation our combined efforts have produced, of which this body and this Nation can indeed be proud. I urge the adoption of the legislation.

I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Speaker, first let me say how delighted I am to see my good friend BOBBY RUSH back on the floor. We have missed him, but in his recovery from his situation, he has been a strong conferee. He hasn't known how strong he has been, I am sure, but he has been a stalwart in bringing this conference report to the floor, and we are delighted he is on the floor to taste the fruits of victory, which is well deserved because of his leadership on this issue at the subcommittee and on the conference.

Madam Speaker, we have a rare thing before us. We have a conference report that has actually gone through the regular process. I want to commend my good friend, JOHN DINGELL of Michigan, the chairman of the Energy and Commerce Committee, for his extremely positive leadership on this issue.

I want to compliment all of the House conferees: Mr. WAXMAN, Ms. DEGETTE, Ms. SCHAKOWSKY and Mr. RUSH on the majority side, and Mr. WHITFIELD and Mr. STEARNS on the minority side. The House conferees, under Mr. DINGELL's leadership, have met numerous times at the principal level and uncounted times at the staff level.

The negotiations on this conference have not been easy. They have not been simplistic. They have been tense and hard-fought. On more than one occasion I have felt like getting up and walking away. I hate to admit it, with Mr. RUSH being a minister, but I have thought bad thoughts about some of the conferees. But having said that, the end product is worthy of support by everybody.

This conference report shows how the House of Representatives should work. We took an issue that is not an easy issue. Chairman DINGELL and Subcommittee Chairman RUSH had a legislative hearing. They had a subcommittee markup. We had a full committee markup. We brought a bill to the floor. We had a motion to recommend. Mr. DINGELL then got the House conferees together to make sure that we had a unified House position, and, when we couldn't, he kept bringing us together until we could. As has been pointed out, the leadership of the staffs on both sides have worked together.

Under the conference chairman's leadership, Senator INOUE of Hawaii, the conference actually met. The Senate made proposals, the House responded, and vice versa. The end result is a conference report that I believe every House conferee signed, and, as far as I know, every Senate conferee signed.

So that is a rarity, Madam Speaker, but the result is going to be a bill on the suspension calendar which for once deserves to be on the suspension calendar. I fully expect to get the same sort of vote on the conference report that we got on the House bill, and I believe the House bill, that passed something like 407-0 or 407-1, I am hopeful that this bill will pass with that same margin.

Now let me talk about what is actually in the bill. This is a strong bill. It gives the Consumer Product Safety Commission added authority to inspect and test children's toys. It creates for the first time a national laboratory that is headed by the Consumer Product Safety Commission. It gives States the right to set up independent laboratories in the State or to do third-party testing of products. It sets the toughest lead standards in the world for products that are going to be used by our children.

Because of Senator STEVENS' leadership in the other body, it bans three-wheel ATVs from the American market. These insidious products are products that have begun to creep back into the market after the lapse of the consent agreement between the industry and the Justice Department that this body helped negotiate when I was a junior Member 15 or 20 years ago. It requires a rulemaking for four-wheel ATVs.

On a chemical compound called phthalates, it outlaws three specific phthalates that there is adequate evidence that they might be harmful in children's products. It sets up a

science-based study on three other phthalates that gives the CPSC the authority to also outlaw them if the science shows that they should be. But it does also require that there be real science, that we don't ban or outlaw products on no science or bad science. There has to be reputable science that is peer-reviewed.

I want to commend Mr. WAXMAN, who was one of the House conferees. He and I disagreed on a number of issues, but we also agreed that we should try to find compromise. And we did; the bill reflects that. One of the main reasons that we have a conference report is because Chairman WAXMAN was willing to compromise, and I want to compliment him for doing that.

I could go on and on, Madam Speaker, and I will during the course of the debate, but let me simply say that this bill represents the Congress at its best. It represents a tough issue where we used the process, where we gave everybody a voice. Chairman DINGELL has been exemplary in allowing the minority to participate and to provide input and ideas.

This is not the perfect bill that I would have had if I had been the only conferee. But it is a very, very good bill. It is a strong bill. It will protect America's children, it is worthy of support, and I hope that every Member this body votes in the affirmative for the bill later this afternoon.

Madam Speaker, with thanks, I want to reserve the balance of my time.

Mr. DINGELL. Madam Speaker, it is with a great deal of pleasure that I welcome back our good friend and colleague the Reverend RUSH from Illinois, and I yield to him, the author of this legislation, the chairman of the subcommittee, 5 minutes in support of the legislation.

Mr. RUSH. Madam Speaker, I certainly want to commend and thank my chairman of the full committee, Chairman JOHN DINGELL, for his extraordinary leadership in this Congress, particularly in the conference on this particular bill. I want to thank him for his long-standing friendship and for his preoccupation with the affairs of the American people. He is a man who deserves a lot of praise and honor.

Madam Speaker, today is a day unlike any other day. It is a joyous occasion, because this Congress has demonstrated to the American people that we are capable of reaching across the aisle in a bipartisan fashion to solve a major consumer crisis.

It is also a special day, because today marks my return to this Congress following an extended medical leave. With God's grace, with the support of skilled medical professionals at the University of Chicago Medical Center, I can stand here and announce to my colleagues, to my constituents and to the Nation that I no longer have cancer in my body.

Madam Speaker, before I directly address H.R. 4040, there are several people I would like to thank. First, I give all thanks to God for all of you, especially

for your prayers, as I bear witness that the prayers of the righteous avail much.

I want to give honor and thanks to my dear wife, Carolyn, and my family, who journeyed with me through the valley of the shadow of death.

I specifically would like to thank Speaker PELOSI, who called me several times to check on my well-being. I also again would like to thank JOHN DINGELL, who called many times. I would like to thank my colleague from Chicago, Congressman DANNY DAVIS, who showed his love and concern for my well-being. I would like to thank the chairman of the CBC, CAROLYN KILPATRICK, who called many times. Chairman CHARLES RANGEL wrote me numerous letters encouraging me. And I would like to thank my good friend from New York, ED TOWNS, for all of his indications of support and well-being. Lastly, I would like to thank Ms. CORRINE BROWN of Florida. All of these individuals were prominent and prolific in their concern and care for me and in their well wishes.

I am also grateful for the prayers and support of my constituents in the First Congressional District of Illinois, and a host of others throughout the U.S. and around the world. My standing here today is a testimony to your prayers and to God's grace.

So, Madam Speaker, I stand here today. After decades of neglect, this 110th Congress will soon pass landmark legislation that comprehensively overhauls and reforms our consumer product safety laws and revitalizes the beleaguered Consumer Product Safety Commission.

This conference report represents over a year's work. It represents careful, often painstaking negotiations between House and Senate Democrats and Republicans. It wasn't easy, but, in the end, conferees were willing to make smart compromises and bridge their many divides. Indeed, this conference report is the very definition of bicameral, bipartisan cooperation.

Madam Speaker, on May 15 of last year, I held my first hearing on toy safety in the subcommittee. Since then, the Energy and Commerce Committee unanimously reported to the House floor H.R. 4040, the Consumer Product Safety Modernization Act, and the House passed the bill 407-0.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. I yield the gentleman an additional 2 minutes.

Mr. RUSH. The gentleman thanks the gentleman for yielding.

Today's conference report draws on the strength of both the House and Senate-passed bills. It fundamentally strengthens the CPSC's regulatory authority and effectively bans lead and certain phthalates in children's products.

□ 1715

It creates a publicly accessible database on consumer products, mandates

laboratory testing of all toys, provides whistleblower protection to private sector employees, improves cooperation between the CPSC and the U.S. Customs and Border Control, and empowers State Attorneys General with the injunctive authority to enforce Federal law. In sum, the conference report on H.R. 4040 weaves and deploys a wide safety net that will snare the dangerous consumer products before they enter the stream of commerce and into our homes.

Madam Speaker, I want to again thank my dear friend, Chairman JOHN DINGELL, for his unbelievable leadership during the conference. I also want to express my sincere gratitude to one of the finest members of this body, to the distinguished ranking member and former chairman, Mr. JOE BARTON of Texas, for his unwavering cooperation. Mr. BARTON, along with Mr. WHITFIELD and Mr. STEARNS, have shown a remarkable commitment to bipartisanship, and their willingness to compromise cannot be overstated. And the same can be said for the other House Democratic conferees, Mr. WAXMAN, Ms. DEGETTE, and the vice chair of the subcommittee, Ms. SCHAKOWSKY.

Madam Speaker, I also want to thank the staff of the CPSC for all of their hard work and dedication throughout this process. Lastly, I want to thank both the Democratic and Republican staff of the subcommittee. They put in long hours. I want to lift up Consuela Washington, Judith Bailey, Andrew Woelfling, Valerie Baron, and Christian Fjeld. I brag about the subcommittee staff. Madam Speaker, I have the best subcommittee staff in the House of Representatives.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

I want to commend my good friend, Mr. RUSH, for his efforts; and I see that we have a distinguished visitor from the other body. We are glad to have Senator DURBIN on the floor.

With that, I want to yield 4 minutes to a distinguished member of the committee and a conferee, Mr. STEARNS of Florida.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. I address my colleague, Mr. RUSH, and say to him I am impressed with the courage and energy that you come down here, and we want to thank you today for taking that extra time. All of us obviously wish you well, and hope and pray and provide great love and friendship that the healing powers of the Lord Almighty will bring great restorative powers on you and you will be successful. We are inspired by you being here today. Obviously it has been fun working with you on this bill and others as the ranking member when you became chairman.

Madam Speaker, I rise in support of this legislation, and obviously I urge its immediate passage. As former chairman and ranking member of the

Commerce, Trade, and Consumer Protection Subcommittee, I have been involved in these issues for many, many years. When I was chairman, we held numerous hearings and markups on a variety of issues, not just on toy safety and lead standards but also the Consumer Product Safety Commission itself. In addition, we held consumer protection hearings on privacy, on the Ford-Firestone tire safety, and consumer protection on the Internet, including spyware, data security, and ID theft. We compiled a long record on this subcommittee.

This bill is a culmination of many years of hard work and oversight. However, like many bills, this bill, H.R. 4040, is not entirely perfect, not all of it is exactly what we may have wanted, but it does go a long way to protect our children against harmful products. And that is the most important issue.

Over the last 2 years, my colleagues, we have seen numerous children's product and toy recalls rise dramatically. Many of these recalls were because of excessive amounts of lead in toys being imported from China. As if parents didn't have enough to worry about, they are now faced with another dilemma: Are the toys that they are buying their children safe today? That is a question they are asking. Today, with passage of this conference report, we will make sure that children are kept safe from hazardous products.

While many Members on both sides have focused mainly on the growing compliance shortfalls with toys that are manufactured outside the United States today, particularly in China, toys have not been the only problem over the past several years. As imports of every type of product have risen over the years, so have the number of problems that have been associated with these particular products. But the Consumer Product Safety Commission has done a fairly good job of meeting this daunting challenge.

As you can imagine, there are 15,000 different kinds of products. They have issued more recalls over the last 2 years than any other time in our history. I commend them for their diligent work in protecting the American people and their children. Despite this good work, we recognize the need to provide the Commission with additional resources, which we are doing today. We authorize significant increases in their budget so that the Commission can fulfill their mission to keep defective products that can cause injury, or worse, out of the stream of commerce today.

This bill is good public policy that not only provides the Commission with new resources but also provides for new standards regarding lead paint and implements the most stringent standard ever for lead content in children's products. This bill requires testing and certification of children's products before they are ever shipped to store shelves, and provides increased penalties for companies that violate the law.

New labeling requirements will help facilitate effective recalls, and the bill provides greater authority for the Commission to recall harmful products and notify the public of these dangers.

It is very important that they have this additional recall authority that is in this bill.

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. BARTON of Texas. Madam Speaker, I yield the gentleman an additional 1 minute.

Mr. STEARNS. My colleagues, all of us on this conference committee and in the subcommittee have worked with the consumer groups, industry leaders, and the Commission itself to make this a bipartisan, sound bill that works effectively. I would like to commend the hard work of Chairman RUSH, Chairman DINGELL, Ranking Member BARTON, Ranking Member ED WHITFIELD, the Senate conferees, and all the committee staff that worked so tirelessly on this important legislation. It is a fact we have a bipartisan bill. It was bipartisan out of the subcommittee and the full Committee on Energy and Commerce.

There are things you can complain about Congress, but today you can commend Congress for working in such a bipartisan fashion to get a very important bill after these many, many years. It is a commendation both to Mr. DINGELL and Mr. BARTON. Through their differences and through the different members on the Senate conferees, they were able to work patiently, consistently, and persevere until we have this final product today.

I urge all my colleagues to support this critical bipartisan legislation, and I look forward to its implementation soon.

Mr. DINGELL. Madam Speaker, I want to thank my good friend from Florida (Mr. STEARNS). He was one of an outstanding group of conferees, as was Mr. BARTON and Mr. WHITFIELD. They deserve the thanks of this body; as also was Mr. RUSH, Ms. DEGETTE, and Ms. SCHAKOWSKY.

I now yield 3 minutes to the distinguished gentleman from California (Mr. WAXMAN) who was one of the able conferees who has brought us a fine bipartisan bill.

Mr. WAXMAN. Madam Speaker, I am pleased to rise in favor of this bill, which marks a great step forward in protecting our children and all Americans from unsafe products. I want to thank Chairman DINGELL, Chairman RUSH, Ranking Member BARTON, and all the other conferees for their hard work in moving this bill forward.

I believe this is an extremely strong bill. It provides critically needed new authorities, personnel, and resources for an agency that has grown all but defunct in recent years. I look forward to a day when we can all feel safer as a result of this legislation.

There are many important pieces in this bill, as others have noted—new

lead limits, mandatory toy standards, third-party testing, a ban on phthalates, whistleblower protections, and much more. In all of these areas we have strengthened Federal law and provided for better national enforcement with respect to consumer products.

At the same time, I am pleased that we have preserved essential State authorities, which are an important tool in protecting consumers. State laws and State action were the catalyst for much of this bill, and it is important that we preserve their ability to take actions in the future whenever it is needed.

I would like to engage Chairman DINGELL in a colloquy to address the issue of preserving State warning requirements.

I am pleased that the bill protects State warning laws related to consumer products or substances, such as California's Proposition 65. The conference report clarifies that any warning laws in effect as of August 31, 2003 are not preempted by this Act or by the Federal Hazardous Substances Act. This important clarification effectively harmonizes the four statutes that are enforced by the Commission. Other laws enforced by the CPSC, including the Consumer Product Safety Act, clearly do not preempt or affect State warning requirements like Prop 65.

I want to make sure that we have corrected any ambiguity with this conference report and harmonized all the Commission's statutes on this point particularly, as well as the Federal Hazardous Substances Act.

I want to yield to Chairman DINGELL and ask, is it also your understanding that nothing in this legislation or any of the laws enforced by the Consumer Product Safety Commission will preempt or affect Prop 65 in any way?

Mr. DINGELL. I thank the gentleman for yielding. Yes, that is my understanding.

Mr. WAXMAN. I thank Chairman DINGELL. Again, I am pleased to support this bill today. I am going to submit a longer statement for the RECORD, but I want to commend all those who have been involved in bringing about legislation that Democrats and Republicans can support and state with good, clear conscience that it is a very important step forward for consumers.

I am pleased to speak in favor of this bill, which marks a great step forward in protecting our children and all Americans from unsafe products. I want to thank Chairman DINGELL, Chairman RUSH, Ranking Member BARTON, and all of the Conferees for their hard work in moving this bill.

I believe that this is an extremely strong bill. It provides critically needed new authorities, personnel, and resources for an Agency that has grown all but defunct in recent years. I look forward to a day when we can all feel safer as a result of this bill.

There are many important pieces of this bill, as others have noted—new lead limits, mandatory toy standards, third-party testing, a ban on phthalates, whistleblower protections, and much more. In all of these areas, we have

strengthened Federal law and provided for better national enforcement with respect to consumer products.

At the same time, I am pleased that we have preserved essential state authorities, which are an essential tool in protecting consumers. State laws and state action were the catalyst for much of this bill, and it is important that we preserve their ability to take such action in the future, whenever it is needed.

One critical state law in this process was California's Proposition 65, which requires manufacturers to label any product that contains a known carcinogen or reproductive toxin. That law has played a unique role in protecting all Americans for decades, so it was important to me that we not interfere with it in this legislation.

I am therefore pleased that the conference report makes clear that any state warning laws like Prop 65 that were in effect as of August 31, 2003, are not preempted by this Act or by the Federal Hazardous Substances Act. This important clarification effectively harmonizes the four statutes that are enforced by the Commission. Other laws enforced by CPSC, including the Consumer Product Safety Act, clearly do not preempt or affect state warning requirements like Prop 65. The Federal Hazardous Substances Act, however, is ambiguous as to its effect on state warning requirements. I am pleased that we have corrected this ambiguity with this conference report and harmonized all of the Commission's statutes on this point.

I am also pleased that under another key provision of the legislation—the new prohibition on phthalates—states retain the ability to regulate phthalates in product classes that are not regulated under this legislation. States also retain authority to enforce any toy safety standards that were in effect on the date of enactment of this bill, as long as they notify CPSC of the standard. I am pleased that the bill includes explicit language to preserve states' ability to regulate alternatives to phthalates, such as other chemical plasticizers that might be used as substitutes to the phthalates that will be removed from toys under this law.

The bill itself does not address the use of hazardous alternatives to phthalates when the prohibition goes into effect, so it is critical that states can act in this area. California has a law on phthalate alternatives and it is important that that law will remain in effect as the new Federal ban on phthalates enters into force.

Finally, I am pleased that under the bill, states have the authority to require additional or more effective testing protocols. Because testing protocols can change over time as tests become more sensitive and science evolves, states must be free to move ahead even when Federal requirements lag behind. The states' ability to act quickly and proactively provides an essential backstop of protection for consumers, and this bill makes sure that backstop remains in place.

Again, I thank Chairman DINGELL and Chairman RUSH for putting together such a strong bill for all Americans.

Mr. BARTON of Texas. Madam Speaker, could I inquire as to the time on each side.

The SPEAKER pro tempore. The gentleman from Texas controls 18 remaining minutes; the gentleman from Michigan controls 16 minutes.

Mr. BARTON of Texas. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, as we go through the debate this afternoon, I will mention some of the specifics in the bill. I would like to point out that the bill before us does have Federal preemptions so that there is one Federal standard and there is one agency to enforce that standard with regards to the safety of children's products, and that is the Consumer Product Safety Commission.

This is important to note, because if we didn't have that, you could have each of the 50 States setting different standards; you could have a conglomeration of rules that would make it very difficult for interstate commerce. So one of the compromises in the bill is that there is Federal preemption, that there is one standard for all the States, and I am very pleased that that is in the bill.

I would also like to point out that the pending bill gives the Commission new authority, gives the Commission new resources, increases the number of commissioners from three to five, and, as I have already pointed out, does create a CPSC testing laboratory so that our children's toys will be tested in the laboratory before they are tested by our children on the living room floors of America.

I would also like to compliment the staffs on both sides, as has already been done by full committee Chairman DINGELL and subcommittee Chairman RUSH. But on the Democratic staff, Consuela Washington actually I think served as the key that kept all of the staffs working together, and her patience was just extraordinary. She was even patient with members like me, and I appreciate that tremendously. Judith Bailey, Christian Fjeld, Andrew Woelfling, Valerie Baron all worked very, very hard on the majority side at the staff level. On the minority side, I am very proud of Will Carty, Shannon Weinberg, Brian McCullough, Chad Grant, Jerry Couri, and even our interns, Beth Manzullo, and John Hammond had some input into the work product, and I want to commend them, especially this past weekend where they worked both Saturday and Sunday so this conference report could come to the floor today.

Madam Speaker, I reserve the balance of my time.

□ 1730

Mr. DINGELL. Madam Speaker, at this time I yield to the distinguished Speaker of the House of Representatives, Ms. PELOSI, 1 minute.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding time, and for his hard work and great leadership in bringing this important legislation to the floor in a way that is bipartisan and shows the full support of this Congress as a Congress for America's children.

It is a special day for us because this bill is long overdue, and took a "New Direction Congress" to work it out and

bring it to the floor in the form that it is in, which is to protect America's children.

But it is a special day for another reason, and that is because one of the main authors of the bill, Congressman RUSH of Illinois, is back with us today. We are all family, and to have our family member return in good health is really something very special to us.

He worked so hard to pass this bill the end of last year, so that before Christmas, families across America could know that Congress cared about our children. The bill passed on a suspension calendar with a strong bipartisan vote with the support of community groups that care about children.

So Mr. DINGELL, thank you for making this come to fruition, especially at a time when Mr. RUSH could be back here with us so that we could say to him, in person, thank you for your leadership for America's children. We love you. You make it a very special day for us when we can do something for America's children and to do so in your presence.

Thank you, Mr. RUSH, for your leadership.

This bill is necessary because, does anybody not know that I am a grandmother?

My husband always says, I just wonder how far into your speech it is before you start talking about your grandchildren.

But as a mother of five and a grandmother of seven, and a person who observes a wider range of children in our extended family, I know that we, moms and parents, want to do everything they can to do the best for their children. But we have our limitations. We have to depend on the Federal Government, and government in general, to protect our children from chemicals that may be harmful to their health or even worse than that.

And so, the last several years, even this past year have been called the year of recalls. The Year 2007 was dubbed the "Year of the Recall" by Consumer's Union.

More than 45 million toys and children's products were recalled last year, and some were found to contain nearly 200 times the legal amount of lead. Toys, toy trains, costumes, magnets, because and even baby bottles were among the common, everyday items found to be harmful to our children.

What is a parent to do?

This year dangerous toy and product recalls are happening in even swifter rates. The number of recalled toys and children's products is up 22 percent over the first half of last year. What is a parent to do?

Most of the toys that were recalled should never have found their way on to the shelves of local toy stores. Over the last several years, at the same time of these record toy recalls, the Consumer Product Safety Commission, which is charged with testing toys before they end up in the homes of our children, have been starved for re-

sources. The agency lost 15 percent of its work force between 2004 and 2007. And in 2007, even the Commission's Acting Director complained that there was only one lonely toy tester at the Commission.

Today, at this legislation, we strengthen the ability, our ability to prevent those toys from even getting to market, get products off the shelves more quickly, and increase fines and penalties for violating product safety laws.

The legislation eliminates lead beyond a minute amount in toys and other products intended for children under 12 years of age. It also bans toxic phthalates in children's toys and child care articles.

Today the "New Direction Congress" is asserting our responsibility to protect children from dangerous toys. Dangerous toys. Think of that. Shouldn't that be an oxymoron? It should be a given that toys are not dangerous. Sometimes they can be used inappropriately. Somebody can fall with a toy, et cetera, but if it has within its very make-up something that is harmful to the health of children, something is wrong with this picture.

The Consumer Products Safety Improvement Act, which is what this bill is, of 2008, is the result of the leadership of many in Congress. I again want to acknowledge the leadership of Chairman DINGELL and BOBBY RUSH. I also want to acknowledge Ranking Member BARTON for his cooperation in bringing this bill to the floor. I would like to acknowledge other leaders on the Energy and Commerce Committee, Congressman WAXMAN, Congresswoman SCHAKOWSKY, Congresswoman DIANA DEGETTE, and also Congresswoman ROSA DELAURO, not on that committee, but a person on the Appropriations Committee who has some jurisdiction over this issue, and who has been relentless, a relentless grandmother on behalf of children.

So I would salute this as a bipartisan effort on behalf of our Nation's most valuable resource, our children, because it is our sacred duty to protect them.

We began this Congress calling it to order in the name of all of America's children. Today we are honoring some of our promise to them by keeping their toys and children's products safe.

Again, Madam Speaker, I urge our colleagues to give an overwhelming unanimous vote on support for this important legislation for the children.

Mr. BARTON of Texas. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, I again want to talk about some of the specifics in the legislation. The bill before us would give the Commission new tools, such as greater authority to expedite recalls; would give the Commission the authority to strengthen reporting requirements to facilitate the identification of the origin of the problems that arise in the supply chain.

We also give the Commission expanded authority to better monitor

and regulate the tremendous increase in the number of products that we import from overseas. The Commission, for the first time, has got explicit authority to consult with United States Customs and Border Protection Service to better identify dangerous products before they enter the country.

The bill, as I have said earlier, also provides national uniform standards for many children's products, rather than relying on a patchwork of disparate State and local rules.

As has been pointed out, the bill before us has the toughest standard on lead, which is basically no lead in children's products as they come into the national market, whether they are manufactured here in the United States or overseas.

There is a concern on some part about the implementation for the schedule for manufacturers to comply with this new lead requirement, but I am confident that they have the resources to do so and will do so.

Madam Speaker, I reserve the balance of my time.

Mr. DINGELL. Madam Speaker, it is a great privilege for me to yield at this time 3 minutes to the distinguished gentlewoman from Colorado, who had so much to do with the success of the conference, my dear friend, Ms. DIANA DEGETTE.

Ms. DEGETTE. Madam Speaker, I want to also thank Chairman DINGELL for his strong leadership on this issue, and also Ranking Member BARTON for his wonderful ability to compromise on the bill.

As the Speaker just told us, last year, it seemed like every day parents were being told that their children's toys were not innocent playthings and, in fact, were very dangerous. This mainly happened during the holiday season, where parents had no idea whether what they were buying to put under the tree would harm or even kill their child.

For a long time now, we have all realized that our consumer product safety system is broken. The CPSC clearly needed more staff, more resources, and more authority. Our consumer protection laws needed to be brought into the 21st century.

This legislation goes a long way to solving those problems. I am so proud to have been one of the House conferees on H.R. 4040. By working diligently with our Senate colleagues and our colleagues on the other side of the aisle, we produced a strong, bipartisan bill.

This conference report has a number of provisions which will protect our kids, and I just want to highlight a few of them. It bans lead in children's products beyond trace amounts, the highest standards in the world. It permanently bans three phthalates and temporarily bans three others in toys for kids 12 and under; and, in fact, it extends all of the consumer protections to kids 12 and under because of the issue of shared toy boxes.

It requires independent third-party testing of children's products to ensure that they are safe before they are sold.

It increases the CPSC's budget dramatically, and it stops the export of certain dangerous products.

I want to thank my conference committee colleagues and all of the staff members involved for pulling together such a good bill.

Chairman, or former chairman, Ranking Member BARTON was right when he said this is the way legislation should be, a strong collaborative effort that produces real results that will help all of the consumers of America.

I hope, throughout the fall, as we move into the next holiday season, parents can take this issue off their plates as one they have to worry about and, instead they can worry about giving their kids a strong, safe holiday season as we approach the end of this year.

Mr. BARTON of Texas. Madam Speaker, I want to yield myself 2 minutes.

Madam Speaker, I hope I can get that quote and frame it, that I was right. It is good to know that I have been right about something in this Congress. I will take that home and show it to my family and my children, and maybe they will appreciate me a little bit more.

I want to keep going through some of the substance on the conference report, Madam Speaker. I want to talk now, in this little segment, about the chemical compound called phthalates. Phthalates are the product, compound that are used in plastics to make them soft. There has been some evidence in the last several years that, in large quantities, in certain products, if a child were to ingest them, that it could cause problems in the development of that child in their teenage years. The science is uncertain, but there is growing concern.

Some States have begun to ban these products. The European Union has banned certain of these phthalates and, as a result, in the other body, the Senate bill had a prohibition based on a California standard on a large number of these particular compounds. I didn't believe then, and I am still uncertain whether it is necessary to specifically ban these compounds because they have been used in products for a large number of years and there is no known instance of any kind of a phthalate poisoning or phthalate deformity in humans.

Having said that, when Congresswoman DIANA DEGETTE came to my office unannounced as I was trying to gather support to sustain a veto of what I thought would be a different bill, I did agree to work with Mr. WAXMAN and Senator BOXER in the other body and come up with a compromise.

I must also say that Chairman DINGELL was instrumental in that, as he counseled me, in only the way that Chairman DINGELL can, about the need for bipartisan compromise. The result is the bill before us where three specific phthalates are banned outright, and another three are temporarily prohibited while we do a comprehensive

scientific study. That is the essence of compromise.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. Madam Speaker, I yield myself an additional 1 minute.

And I do want to give, as I said, in the conference, Congresswoman DEGETTE should get the Henry Kissinger award for diplomacy because she actually was apparently shuttling between my office, Chairman DINGELL's office, Mr. WAXMAN's office and maybe even Congresswoman SCHAKOWSKY's office. That was a tremendous amount of effort on her part, and it does show that when there is trust and bipartisan willingness to cooperate and, as Lyndon Johnson, the great former President and Member of this body once said, "There is nothing that is not compromisable." And certainly, this conference report shows that that is a true statement.

I reserve the balance of my time.

Mr. DINGELL. Madam Speaker, at this time I am delighted to yield to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY) who was so valuable and so helpful in achieving this purpose today, 3 minutes.

Ms. SCHAKOWSKY. Madam Speaker, as a conferee on this bill, I proudly rise to support the conference report to H.R. 4040, the Consumer Product Safety Improvement Act.

When we began this process of reforming the Consumer Product Safety Commission over a year ago, I set out one goal, to ensure that the toys and products I buy for my grandchildren are safe. I am pleased to say that the conference report we are considering today fulfills that goal for all of America's children.

□ 1745

H.R. 4040 is legislation that every Member of Congress can be proud to support. It is a product of bipartisan negotiation and compromise. I, too, want to thank our esteemed chairman, JOHN DINGELL, for shepherding us through this process, as well as ranking member JOE BARTON, my fellow conferees, and all of the staff and consumer advocates that worked so hard on this bill.

I also want to thank our Senate counterparts. Chairing the conference was Senator INOUE, and the key author of the Senate companion bill was Senator MARK PRYOR of Arkansas. They both deserve the gratitude of the House, especially if they pass this bill this week.

I am especially thrilled, however, to welcome back to Washington my friend and chairman of the Consumer Protection Subcommittee and chief sponsor of this bill, Congressman BOBBY RUSH. You have been deeply missed, and I'm so happy to have you back on this momentous occasion which you have made more momentous.

With this conference report, Congress is breathing new needed life into the

CPSC. For the first time, we are virtually banning lead in children's products as well as the harmful phthalates that can cause hormonal damage. We're improving the CPSC's enforcement authority and maintaining the authority of State attorneys general to ensure that the products sold in their States comply with the law. And we are providing consumers with a publicly searchable incident database that will allow them to report hazards to one another.

There are three provisions I am particularly proud to have authored in this conference report.

The first is language directing the CPSC to devise mandatory safety standards for infant and toddler durable products. Those are the things that are in every nursery: cribs, high chairs, playpens, strollers, bassinets. It also requires pre-market testing of those products to ensure that they meet those standards. Bottom line, we will no longer be using our children as test dummies. The government will be ensuring their safety.

Second, I'm gratified that the conference report includes the Danny Keysar Child Product Safety Notification Act in its entirety. I crafted this legislation in honor of Danny Keysar who was strangled to death when he was 16 months old at his licensed daycare facility when the portable crib he was sleeping in collapsed. The crib that killed Danny had been recalled 5 years earlier, but the daycare center didn't know that.

To improve the product recall system, manufacturers of children's products will be required to attach a postage-paid recall registration card to each product that can be mailed in to notify the purchaser when a product is recalled for safety reasons. This provision is a tribute to the work of Danny's parents, Linda Ginzel and Boaz Keysar, who created the organization Kids in Danger 3 weeks after Danny's death in order to prevent other children and families from suffering the same tragedy.

The SPEAKER pro tempore. The time of the gentlewoman from Illinois has expired.

Mr. DINGELL. I yield the distinguished gentlewoman 30 additional seconds.

Ms. SCHAKOWSKY. Finally, I am delighted the conference report contains a provision to immediately adopt the set of existing voluntary toy standards as a mandatory standard on an interim basis. Then the CPSC, working with consumer groups, will assess those standards, beginning with the toys that present the greatest hazards, and develop not only the best possible mandatory standards, but require pre-testing to those standards. At last, all toys will be tested before they arrive on toy store shelves.

Madam Speaker, the conference report we will adopt today will finally bring the CPSC into the 21st century, and will, I hope, transform it into the

world's foremost consumer protection agency.

It was an honor to be working on this bill.

Mr. BARTON of Texas. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, in previous comments I have thanked the committee staffs. On this occasion, I want to thank some of our friends at the Consumer Product Safety Commission.

I want to thank Cheri Falvey, who is general counsel; Gib Mullan, who is the director of compliance; Lowell Martin, the deputy general counsel; Quin Dodd, chief of staff to Acting Chairman Nord; Jack Horner, director of congressional relations. They've all worked very hard on this legislation.

We also want to thank some of our hearing witnesses: Dr. Marilyn Wind, who is a pharmacologist who testified before the other body; Dr. Michael Babich, a chemist, who testified before the Energy and Commerce Committee. Some of our database presenters were Pat Weddle, who is director of IT services, and DeWayne Ray, deputy CIO. Some of the laboratory people who talked to us about how to detect lead: Dr. Joel Recht.

And finally some of the staff, some of the Commission staffers who worked with us on the budget numbers: Mr. Ed Quist, who is the director of financial management of CPSC; and N.J. Scheers, director of planning and budget.

Those are some of the staff people in the CPSC and the witnesses who helped us prepare this legislation. We should commend them for their efforts.

I reserve the balance of my time.

Mr. DINGELL. Madam Speaker, at this time I yield to the distinguished gentleman from Illinois, Mr. RAHM EMANUEL, 2 minutes.

Mr. EMANUEL. I would like to thank the chairman as well as the ranking member for this legislation, but particularly I want to thank my colleague from Illinois, BOBBY RUSH, the subcommittee chairman who worked on this legislation who is back today from his illness. As my colleague JAN SCHAKOWSKY said, it is a special warmth to all of us to have you back.

This legislation puts consumer safety back in the Consumer Product Safety Commission. You have heard from a number of speakers prior to me—and there is no reason to go through it—all the new powers and capabilities of this commission. And while we have talked about last year the 231 recalls of 45 million toys, Fisher-Price alone recalled 1 million toys, 1 million cribs were recalled, we should not lose sight also that we had a commissioner who was not doing her job.

When all of this was breaking out in the news, the commissioner, the head of the Consumer Product Safety Commission, was taking trips paid for by the very industry they were responsible for regulating. When this broke and all of the recalls were occurring, the commissioner who not only was

taking these trips said, "I don't need any more staff for this. I don't need any more money for this," and yet the American people knew at that time we had a commissioner who was head of the Consumer Product Safety Commission who was not on the job doing the police work that she was responsible for doing.

So the good news is not only do we have new laws, not only will we empower this commission in a new way, after November, we're going to have a new commissioner with a new agency and a new mission and new resources to do exactly what they're supposed to be doing.

So today, for all of us who wanted to see this legislation, who read with horror the stories that came out about what was happening to toys, to cribs, and how parents and their children were being put at risk and their government wasn't doing their job, I am proud of this bipartisan accomplishment. I'm most proud of the work that our colleagues did together putting aside their differences.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. DINGELL. I yield the gentleman an additional 15 seconds.

Mr. EMANUEL. The best news is after November, we will have a new commissioner who doesn't say "yes" to the status quo but says "yes" to the new powers to make sure that we are protecting our children and their families.

Mr. BARTON of Texas. Madam Speaker, I have no other speakers, and I am prepared to close. I am also prepared to yield some of my time to Chairman DINGELL if he needs additional time.

At this point in time, though, I would reserve the balance of my time.

Mr. DINGELL. Madam Speaker, I am delighted at this time to yield 2 minutes to the distinguished gentlewoman from Ohio (Ms. SUTTON).

Ms. SUTTON. Thank you, Mr. Chairman, for your leadership on this amazing legislation. Consumer product safety is not an area that we can afford to ignore, and this historic legislation that we're passing today is a tremendous victory for consumers.

This year dangerous toy and product recalls are happening at an unprecedented rate. I remember just a couple of months ago reading a story in my local paper about possible lead contamination and the paint on plastic Easter eggs. That is unacceptable.

For far too long we've been reading story upon story about dangerous toys and contaminated food. Imports from foreign countries continue to grow, and many manufacturers from foreign countries fail to adhere to even basic safety standards.

The American people should not have to worry about the safety of the products they use or the toys that they give their children to play with. Last year, more than 25 million toys were recalled

in the U.S., and 80 percent of all toys sold in the United States are imported from China.

This relationship between the growing import safety crisis and American trade policy is notable and requires us to strengthen our oversight here at home. To do that, the Consumer Product Safety Commission needs to have the resources to help protect our families and then they need to do it.

Our bill strengthens the CPSC and ensures American families are protected from dangerous toys, and this legislation bans lead beyond a minute amount in many products, creating the toughest lead standard in the world.

Madam Speaker, my constituents deserve to know that their government is doing everything it can to keep their families safe. Today with passage of this bill, we are upholding that responsibility.

I thank you again, Chairman DINGELL, and your committee for all of your hard work, and thanks to Speaker PELOSI for making this issue a priority. I also want to express my appreciation to Representative BOBBY RUSH for his commitment and his leadership in bringing this legislation to fruition.

I urge my colleagues to support this important work.

Mr. DINGELL. Madam Speaker, I have no further requests for time. I am ready to close and to say appropriate remarks for my good friend from Texas for his fine work and that of all of the other members who have worked so hard on this. So I will close at the proper time.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think we've seen in the debate today that when the Congress does decide to work in a cooperative spirit, the end product is a product that's worthy of support by all Members on both sides of the aisle, in most cases regardless of their philosophical affiliation.

The Consumer Product Safety Commission is a necessary and vital part of our effort here in the United States to make sure that the products that are sold to the American public are the safest in the world. The emphasis on this bill, in addition to reauthorizing the Consumer Product Safety Commission, has really been to beef up the standards and the enforcement authority and the technical ability of the CPSC for children's toys and children's products.

As Congresswoman SCHAKOWSKY pointed out, there are some very specific things in this bill that should provide over the years, as it is implemented, the prohibition of some of the unwanted tragedies that we unfortunately have seen in the past, and in her case on the crib issue that she's been so diligent in bringing forward.

We increase the number of commissioners; we increase the budget of the commission; we create a new laboratory; we in certain cases ban certain

products, specifically three-wheel ATVs that are coming into the country; we require a study on four-wheel ATVs. As we have said on numerous occasions, for the first time we prohibit certain phthalates from being used in children's products, and we require a science-based study on three other phthalates. We have the toughest standard for lead in the world today.

By any definition, this is a strong bill. It is a pro-consumer bill. But yet it is also a bill that will allow the manufacturers of children's products to have the ability to manufacture in a safe way and to market in a safe way these products to the American public.

Finally, Madam Speaker, I want to say something about the distinguished chairman of the committee, Chairman DINGELL. I am not a person who normally initially is willing to compromise. I don't think if you ask a Member of this body who's been in it very long who knows me does JOE BARTON change his mind very often, I think the answer you would get is "not frequently." But it became apparent as we went to conference with the Senate that compromise was going to be a necessity.

On the issue of phthalates, being a registered professional engineer, I was not a believer that we should automatically ban the number of phthalates that the other body's bill did and I was not somebody who was really seriously interested in finding a compromise. My position was the House position, which was we don't do single products. We should leave that up—if the science shows it should be banned later on, so be it.

Chairman DINGELL came to me and said, "You're going to have to take another look at that." And I said, "Mr. Chairman, I don't want to. I don't think we need to take another look at it."

And he said, "JOE, I really hope that you will find it in your heart to really study this phthalate issue." And because of my respect for JOHN DINGELL, I promised him that I would do that.

□ 1800

And I spent the next week, both at the staff level and in phone conversations, with the leading scientists in the United States that actually manufacture and distribute the product, studying that issue.

And as a consequence of that, since I am an engineer, if the facts say something, you've got to look at the facts. And I was convinced, based on those conversations from the staff on the minority side and some of the scientists that there was some doubt and there was some reason on certain of the phthalates, that there should be a prohibition.

And we put forward a proposal from the minority side to Chairman DINGELL. He massaged it. He put forward a position as a conference. It was not accepted, but it was a starting point for negotiations, and Congresswoman

DEGETTE got into the discussion. She went to Mr. WAXMAN. Mr. WAXMAN went to the other body, to Senator BOXER and Senator FEINSTEIN, and the result is we actually have a conference report that is a good compromise.

So I want to commend all of those, but I especially want to commend JOHN DINGELL because he is the dean of the House. He has served in this body over half a century, and if he had not had the wisdom and the leadership to say that you had to try to find a compromise, we wouldn't be here. We would, on my side, be rallying support to sustain a Presidential veto, and on the majority side, be trying to make sure that this got the two-thirds vote.

So, Madam Speaker and Members of the body, I have the utmost admiration for Chairman DINGELL, and I have the utmost respect for the institution, of the process of the House of Representatives, and that shows in this bill.

Vote for the conference report.

I yield back my time.

Mr. DINGELL. I yield myself the balance of the time for the purposes of closing.

I want to make a little observation about my friend from Texas. He's too kind to me and not kind enough to himself. He and I have the privilege of leading the Commerce Committee. It's a great committee composed of great Members, and we are proud, indeed, of them all, and we have an extraordinary staff, and they deserve the gratitude of this body for the fine work they did.

My good friend from Texas and I have had some fine fights, but we have over the years become great friends, as well we should be. And he has earned not just my respect and affection but that of all of his colleagues on the committee and in this body because he's a fine, decent and wonderful human being.

And I know that there were difficult times for him, as there were for all of our other conferees, Mr. RUSH, Mr. WAXMAN, Ms. DEGETTE, Ms. SCHAKOWSKY, Mr. STEARNS, and Mr. WHITFIELD, and I know on one occasion it looked like this thing was going down the tube. But Ms. DEGETTE and my good friend from Texas (Mr. BARTON) got together, and they pulled it together and made it work. And we owe them thanks for that. It's great public service.

And we also do for Mr. WAXMAN, because at a very difficult time, the question of preemption and the level of phthalates was before us, and in a very quick and gentlemanly way, Mr. BARTON and Mr. WAXMAN worked that issue out. We owe them thanks for that.

We have given the House a good bill. It's a bill that's going to protect people. It's a bill that's going to not just protect people but kids, and I think we have to give a nod here to Mr. SERRANO, the chairman of the Appropriations Committee, because without proper funding this legislation is not going to work, and people are going to keep getting killed by shoddy products,

most of which are imports. And we understand that under Mr. SERRANO's leadership, there will be \$100 million in the appropriation next year for dealing with the problems of this agency.

Again, Madam Speaker, this is a good bill. It shows how the House can work together and how the process, when properly used, leads to good legislation.

My good friend, Mr. BARTON, is an institutionalist, and we're very proud of that. And I pride myself that I, in some small way, am one of those, too. But this is the way the place should work. For hundreds of years, wise men and women have left us the way that this place can and should work, and it's my hope that as we go forward in this Congress and in following Congresses that we will again be able to work as we did on this matter, not just on the Commerce Committee but on all others.

Commerce is very proud of its traditions and its history. We're also very proud of our other sister committees and of the good work that they do, and it is a real privilege for me to commend all of my colleagues on both sides of the aisle and say to them well done for the great work that you have done. All of us have reason to be proud, and all of us have reason to be grateful, and all of us have strong reason to be delighted to see back our old friend Reverend RUSH, who started this whole thing out.

And so, Madam Speaker, to my colleagues I say, well done, let's vote this legislation through. It's a great piece of legislation, and it will protect and it will save lives, health, and the security of our people.

Ms. ESHOO. Madam Speaker, I rise today in support of H.R. 4040, the Consumer Product Safety Modernization Act.

In the last year there have been countless reports about dangerous products that have slipped through the cracks and reached store shelves, only to be discovered when someone got hurt. There has been a complete failure by the Consumer Product Safety Commission to keep harmful and sometimes lethal products away from consumers. Red tape, lax enforcement, and a shortage of resources at the CPSC have contributed to the recent recalls: 25.6 million toys were recalled from stores in fiscal year 2007, compared with only 5 million toys in 2006, and it's the American consumer, especially children, who are suffering.

It's become glaringly obvious that we can't rely on manufacturers to police themselves, we need to give the chief consumer regulatory agency the authority and the resources necessary to get unsafe products off the shelves and stop them from coming into the country.

This bill is a significant improvement in product safety from the way we're operating now. It provides additional funding to the CPSC and bolsters the Commission's ability to test and identify dangerous products. It also authorizes State Attorneys General to bring action on behalf of their residents to enforce Federal consumer safety rules.

I'm pleased that my amendment to give the CPSC mandatory recall authority is included in the bill. This is an important tool for the CPSC to wield against the most nefarious companies who resist a recall of their faulty products.

On the other hand, I'm disappointed that my amendment on allowable lead levels in children's toys was not accepted. The amendment I offered in committee would have brought lead levels to 40 parts per million, the standard recommended by the American Academy of Pediatrics. It's my hope that the CPSC will take seriously its authority to adopt a more protective standard if it makes the determination that it is feasible and protective of human health.

I support this bipartisan bill to protect American consumers, especially children, and ask my colleagues to support it as well.

Mr. MARKEY. Madam Speaker, I rise to commend my colleagues on both sides of the aisle for their excellent work on reaching an agreement on this important legislation to upgrade and modernize the regulations and the Agency charged with ensuring the safety of consumer products.

In the past couple of years, Americans have been shocked to learn that the Consumer Product Safety Commission is an agency in crisis, starved of resources and slow to respond to a growing tsunami of toxic toys and other products that continue to put consumers at risk.

We learned of defective cribs that resulted in deaths whose defects were never fully disclosed to the public. We learned of lead-tainted jewelry and other products, toys coated with a notorious date-rape drug, and unacceptable delays in the investigation and recall of dangerous products on the part of the CPSC. We learned of undue influence by manufacturers within the CPSC itself. With all of these problems, CPSC had come to stand for the "Can't Protect the Safety of Children" agency.

The Democratic Congress made reform a priority and embarked on a New Direction. The result is a remarkable success.

We have agreed to BAN lead and phthalates in children's products.

We have agreed to greatly increase funding and personnel for the CPSC.

And we have agreed to dramatically upgrade and make mandatory testing requirements and standards for toys.

These new provisions will dramatically improve the protection of consumers across the country.

There are three provisions in this conference report that I would like to call particular attention to.

First, I am delighted that the Conference Committee has included language I first conceived of and proposed during House consideration of the bill to create an online searchable database for consumers to obtain early warning of defective and dangerous products.

In 2000 and again in 2003, the CPSC documented cases of children suffering intestinal injuries after swallowing small but powerful magnets that had fallen out of toys. The public didn't know, and the CPSC did nothing.

By mid-2005, after more reports of safety concerns associated with the magnets and two reports of serious, life-threatening injuries, the public still didn't know and the CPSC still did nothing.

On Thanksgiving Day 2005, 22 month old Kenny Sweet of Redmond, Washington died after swallowing magnets that had fallen out of Magnetix toys. It was only after Kenny's death and an additional 4 hospitalizations that the CPSC finally gave the public an inkling of what was going on.

But it took until April 2007—after seven years of reports of risks, numerous serious injuries and a death—before a full recall of all the products was undertaken.

In the past months, we have learned of additional tragic accidents related to flawed or toxic products on store shelves. The fundamental problem that needed to be solved is that the people buying these products for their children, grandchildren or households should not have to wait months or years to find out that someone has died or been seriously injured.

The database created in this legislation will give empower consumers by requiring the CPSC to create a publicly searchable database that will allow them to access specific reports from consumers, doctors, hospitals or others of serious injury, illness or death, or risk of serious injury illness or death that may be due to a faulty or unsafe product. The database will be similar to those that already exist for cars and other automotive products at the National Highway Traffic Safety Administration and for drugs and medical devices at the Food and Drug Administration.

No longer will parents be learning about "Thomas the Toxic Train," "Defective Diego" or "Poisonous Polly Pocket" months or years after the CPSC learns of them, and I thank the Conferees for including my proposal in the final bill.

I also want to particularly commend the Conferees for including strong whistleblower protections for private sector employees who are retaliated against for disclosing safety problems with defective products. These provisions are similar to those I authored for rail and mass transit security workers in the 9-11 bill, and represent an excellent step forward in ensuring that these brave individuals are treated like the "Paul Reveres" they are instead of being threatened with loss of their jobs and livelihoods.

I wish to point out that Congress did not reiterate long standing case law and established legal principles for interpreting statutory language in the whistleblower provision, and intends that those standards continue to be respected. To illustrate, consistent with long-established Supreme Court case law, see e.g., *English v. General Electric*, 496 U.S. 270 (1990), these rights do not cancel or replace preexisting remedies, whether under other overlapping congressional statutes, statute laws, state tort claims or collective bargaining agreements. There also should be no confusion that the rights created by this statute supersede and cannot be canceled and overridden by any conflicting restrictions in company manuals, employment contracts or non-disclosure agreements.

I also wish to note that consistent with the Act's remedial purposes and longstanding case law, employee should be broadly defined to protect all individuals, including current and former employees, as well as job applicants, who have information that may prevent danger to consumers from illegal product hazards.

Finally, section 102 which relates to third party testing, I am pleased that the Conferees included language that requires testing of samples that are identical in all material respects to the product, meaning that submitting product prototypes rather than actual examples of the manufacturing run for testing would not, in my view, satisfy the requirements of this section.

Once again, I wish to commend my colleagues for their excellent work on this landmark legislation. I look forward to a reinvigorated CPSC, equipped with the necessary resources and authority needed to be the consumer's "cop on the beat", keeping Americans safe from dangerous products.

Mr. WHITFIELD. Madam Speaker, I rise today in support of this conference report for the Consumer Product Safety Improvement Act.

To begin, I would like to thank Chairman BOBBY RUSH, the original author of this bill, for his tremendous leadership on this issue. He has been in our thoughts and prayers and we are extremely pleased to see he is back and recovering. I look forward to continuing our important work together.

I also would like to thank full Committee Chairman JOHN DINGELL and Ranking Member JOE BARTON for their collaborative work during this conference. Unfortunately, we have seen in recent history that the minority—on both sides of the aisle—have been shut out of conference negotiations. We are here today under the best of circumstances, and I credit this to their character and hard work.

Madam Speaker, we were all horrified at the number of children's products that were recalled last year. I am glad the Commission worked so hard to get those potentially dangerous products off the store shelves and this bill will make that important job easier and more effective.

When parents purchase toys the last thing they should be worried about are toxic levels of lead, potential chemical side effects from accidentally swallowing a toy, or similar health hazards.

Both chambers acted swiftly to approve legislation—and I might add the House voted unanimously—to better fund and equip the Consumer Product Safety Commission (CPSC) so they can help prevent another "year of the recall."

Today's conference report represents months of work to get a strong but reasoned bill that protects our children, and to send it to the President for his signature into law. Among other provisions, the conference report sets the toughest lead standard for children's products in the world. We require the CPSC to lower allowable lead to only trace amounts, and task them to revise this standard downward if it is technologically possible. We also require mandatory third party testing for children's products to ensure compliance with CPSC regulations and standards.

As I mentioned, the conferees acknowledged that the CPSC has been underfunded and understaffed for years. To alleviate that, we increase the authorization levels significantly in the first year and then by approximately 7 percent for each of the next 4 years. These new resources will allow the Commission to hire additional staff and update their laboratory to help them do their job more effectively. This conference report also increases the penalties for bad actors and enhances the authority of State Attorneys General to seek appropriate injunctive relief, so that dangerous children's products don't make it into the hands of our kids and grandkids.

Finally, I would like to address one of the more controversial provisions relating to a group of chemical plasticizers known as phthalates. Most of us in Congress are not scientists; however, concerns were raised that

some phthalates could potentially be harmful to young children and pregnant mothers.

While I support restricting the use of the certain phthalates that many scientists agree are harmful, I have some concerns about the interim prohibition on other phthalates that are considered to be safe. We obviously do not want to replace one safe plasticizer with a lesser known and potentially more harmful one. However, I am pleased that we asked the CPSC to quickly form an expert panel to review these phthalates and their alternatives to ensure we get it right.

I also would just like to note that the conferees on both sides of this issue worked in good faith to find a true compromise on this section, and I believe they all should be commended for their hard work and open mindedness.

I would also like to briefly mention the issue of Federal preemption. While this is sometimes a contentious issue, I believe that it is important that businesses are given some certainty as to what rules they must follow, and who will be enforcing those rules. A confusing patchwork of State laws ultimately benefits no one.

So, I am glad that this conference report preempts State standards—notably for lead, lead paint and the phthalates I mentioned—and that the authority of the State Attorneys General is appropriately limited to ensure that enforcement is swift, efficient, and consistent across the country. All of the children in America will be protected equally and vigorously.

Madam Speaker, I strongly support this conference report as the compromise product of a good process. In closing, I would again just like to thank all the members of the conference committee on both sides of the Capitol and their staffs, including my own staff, James Robertson, for working tirelessly to produce a law that will maximize our opportunity to protect children from dangerous toys and products.

Mr. VAN HOLLEN. Madam Speaker, I rise in strong support of this conference report and commend the conferees for their decision to prioritize public health in this final legislation.

At the end of last year, as the country was awash in reports of unsafe levels of lead being found in children's toys, I expressed the hope that this Congress' final CPSC Reform bill would embrace the improved recall notice and strengthened enforcement authority in the House-passed bill while going beyond the scope of mandatory product testing, enhance a family's right to know about dangerous and defective products on the market, and provide robust whistleblower protections for those courageous enough to bring serious safety hazards to light.

After months of negotiations, I am gratified that this conference report accomplishes all of these objectives. H.R. 4040 retains the House bill's original focus on ensuring meaningful public notice for product recalls and empowering states' Attorneys General to help enforce Federal law. Additionally, today's conference report requires mandatory pre-market safety testing for lead and other safety standards in toys, cribs and other children's products—without preempting stronger State protocols like those we have in Maryland. It requires the CPSC to create a searchable and user-friendly public database on deaths and serious injuries resulting from consumer products so that par-

ents have access to the information they need to protect themselves and their children. And it provides important whistleblower protections to private sector employees who report violations of CPSC-enforced product safety requirements.

Finally, this legislation takes the long overdue step of banning lead above truly minute amounts from products intended for children under twelve, and it outlaws a number of dangerous chemicals called phthalates from children's toys and child care items.

Madam Speaker, this conference report represents a vitally important bipartisan agreement on behalf of America's families. I urge a "yes" vote.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and agree to the conference report to the bill, H.R. 4040.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BARTON of Texas. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1338, PAYCHECK FAIRNESS ACT

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 110-807) on the resolution (H. Res. 1388) providing for consideration of the bill (H.R. 1338) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT TO ACCOMPANY H.R. 4137, HIGHER EDUCATION OPPORTUNITY ACT

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 110-808) on the resolution (H. Res. 1389) providing for consideration of the conference report to accompany the bill (H.R. 4137) to amend and extend the Higher Education Act of 1965, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings