

However, as is the case sometimes, we are now learning about some of the unintended consequences arising from that legislation. I've heard from Utahns who are very concerned that parts of the act are going to put them out of business and harm those that benefit from their products and services.

Next week, as part of the Consumer Product Safety Improvement Act, a new lead standard for products goes into effect. The act makes it illegal to sell products that contain more lead than the new standard allows—it classifies those products as banned hazardous substances. The new standard should help protect our children from the harmful effects of lead poisoning.

The act also requires manufacturers to use accredited third-party laboratories to certify the safety of their products made for children ages 12 and under. If you don't test the product, you can't sell it. This makes perfect sense.

But here's the problem: while resellers of those products are exempt from the testing requirements of the legislation, they are not exempt from the penalties associated with violating the act. Violations can result in criminal punishment of up to \$250,000 and 5 years in prison, and civil liability up to \$15 million. All of this is scheduled to go into effect on February 10th of this year—less than one week from today.

However, the Consumer Product Safety Commission understands there are problems associated with the act. I met with Acting Commissioner Nancy Nord last Friday about these issues. We discussed both the act's potential problems and the importance of maintaining public safety. That same day, her organization postponed the testing and certification requirements of the act for one year. They needed additional time to finalize the rules, and issue clearer guidance on how businesses should comply with the law. Congress gave them the discretion to do this.

However, and this is the problem, the Consumer Product Safety Commission doesn't have the discretion to postpone the actual standard—how much lead is legally allowable in certain products. So you have a situation where the agency is not enforcing the standard by requiring testing and certification while at the same time, the companies that have products in their inventory that exceed the lead standard are subject to both criminal and civil penalties. As one who ran his own business, I can tell you that this makes no sense.

The legislation that I introduce here today will remedy this seeming contradiction. My legislation gives the commission the authority, if it determines it's necessary, to also delay implementing the new lead standards until they have finalized the rules and begin to enforce the law. If the commission were to exercise those authorities, it would give both Congress and the Consumer Product Safety Commis-

sion enough time to really evaluate the effects of this legislation, particularly on our small businesses and thrift enterprises, and implement something that actually makes sense.

You must understand that I am not opposed to the new lead standards or keeping our children safe. My bill is not mandating a year delay; it's simply giving the commission that authority. In the meantime, we must craft some sort of compromise before this well-intended law wreaks havoc upon many of our small businesses and those in the thrift industry that serve the lower income in our country.

Let me explain some of the problems associated with the CPSIA.

Some of my constituents who are concerned about this bill are running small businesses out of their homes to supplement their family income during these difficult economic times. One constituent, Katie Erwin, recently wrote to my office to tell me her personal experience. She designs and makes baby dresses that are sold on the Internet. Her dresses require the use of many fabrics, buttons, snaps, and elastic materials. She has done her research into what her business will have to do after the CPSIA becomes law. Even though she uses only materials that have been proven to have safe lead content, she has to have her end product tested. Not just each dress, but each element of each dress. At \$75 per test, one dress could end up costing \$750. She told us that, in order to be compliant, the dresses would be so expensive that she'd never make a profit. And that is if she could even sell the more expensive dresses. Other small and home-based businesses tell the same story. Many fear going out of business, and don't know how to cope with the new enforcement.

The Ogden Rescue Mission in northern Utah has two thrift stores that have been around for decades selling used goods. The owner has made it clear that he will stop selling any children's products on February 10 because he doesn't want to break the law or be held liable for inadvertently selling a now-illegal product. Companies risk losing their insurance if they accidentally sell an unsafe product. With the new standards required by the Consumer Product Safety Improvement Act, the chance of that happening is almost certain. I have to believe that larger thrift stores like Deseret Industries, the Salvation Army, and Goodwill Industries will all have similar concerns once the Act is fully understood and implemented.

Remember, these companies are going to be subject to criminal penalties and civilly liable for products they sell that exceed the standard, including the resellers whom the law exempts from the testing and certification requirements. Again, five years in prison, \$250,000 in criminal penalties and \$15 million in civil penalties.

At a time when we are debating how to stimulate the economy and keep

businesses afloat, we should not overlook this problem that has the potential to cost our economy millions of dollars in litigation costs and many, many jobs if it is not implemented in the right way. During an economic downturn like the one we are experiencing, thrift stores and others that sell used goods are going to be more important than ever. Let's make sure they are able to serve our communities by providing the commission with the tools necessary to work out the problems associated with implementing the CPSIA.

I hope the Senate expeditiously considers my legislation. I think this approach makes sense, and will ultimately help the commission to better implement this law. I understand others may have different approaches to resolving the same problem, and I would invite a discussion of this issue during the coming weeks with my colleagues so we can fix it quickly before we do irreparable damage to businesses across the country.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 28—AUTHORIZING EXPENDITURES BY THE SENATE COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN submitted the following resolution; from the Committee on Indian Affairs; which was referred to the Committee on Rules and Administration:

##### S. RES. 28

*Resolved*, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Indian Affairs is authorized from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010, through February 28, 2011, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2009, through September 30, 2009, under this resolution shall not exceed \$1,449,343.00, of which amount (1) not to exceed \$20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$20,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2009, through September 30, 2010, expenses of the committee under this resolution shall not exceed \$2,546,445.00, of which amount (1) not to exceed \$20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized

by section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (2) not to exceed \$20,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2010, through February 28, 2011, expenses of the committee under this resolution shall not exceed \$1,083,838.00, of which amount (1) not to exceed \$20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$20,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2011.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of the salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010, through February 28, 2011, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

#### SENATE RESOLUTION 29—TO LIMIT CONSIDERATION OF AMENDMENTS UNDER A BUDGET RESOLUTION

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Budget:

S. RES. 29

*Resolved,*

#### SECTION 1. LIMITATION ON CONSIDERATION OF AMENDMENTS UNDER A BUDGET RESOLUTION.

For purposes of consideration of any budget resolution reported under section 305(b) of the Congressional Budget Act of 1974—

(1) time on a budget resolution may only be yielded back by consent;

(2) no first degree amendment may be proposed after the 10th hour of debate on a budget resolution unless it has been submitted to the Journal Clerk prior to the expiration of the 10th hour;

(3) no second degree amendment may be proposed after the 20th hour of debate on a budget resolution unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour;

(4) after not more than 40 hours of debate on a budget resolution, the resolution shall be set aside for 1 calendar day, so that all filed amendments are printed and made available in the Congressional Record before debate on the resolution continues; and

(5) provisions contained in a budget resolution, or amendments to that resolution, shall not include programmatic detail not within the jurisdiction of the Senate Committee on the Budget.

#### SEC. 2. WAIVER AND APPEAL.

Section 1 may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 1.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation to provide greater efficiencies to what I believe is a broken process for consideration of the budget resolution. The need for reform is based on the most recent consideration of the budget resolution on March 13, 2008, when the Senate conducted 44 stacked roll call votes in one day—the so-called "vote-a-rama." With the 44 stacked votes, the frequent unavailability of amendment text in advance so there could be no analysis and preparation, the chamber full of Senators, the unusual noise level, the constant banging of the gavel by the Presiding Officer, the near impossibility of hearing even just the 2 minutes allotted for discussion, and consideration of matters entirely unrelated to the budget, I believe the process needs reform. The resolution I am introducing today is based on a proposal previously submitted by Senator ROBERT BYRD, whom most would agree is our most-knowledgeable Senator on parliamentary procedure. The Byrd proposal seeks to correct these problems I have cited by imposing several new rules designed to foster greater transparency and efficiency on a budget resolution.

Under the budget rules, once all debate time has been used or yielded back, the Senate must take action to agree to or to dispose of pending amendments before considering final passage. This scenario creates a dizzying process of voting on numerous amendments in a stacked sequence, often referred to as a "vote-a-rama." During the course of the "vote-a-rama", dozens of votes may occur with little or no explanation, often leaving Senators with insufficient information or time to deliberate and evaluate the merits of an issue prior to casting a vote. By consent, the Senate has typically allowed 2 minutes of debate, equally divided, prior to votes. However, the budget process does not require Senators to file their amendments prior to their consideration. In many instances, members are voting on amendments on which the text has never been made available. This difficult working environment is further compounded by a chamber full of Senators and the constant banging of the gavel by the presiding officer to main-

tain order. This unusual noise level makes it nearly impossible to hear the one minute of debate per side.

The Budget Act of 1974 outlines the many clearly defined rules for consideration of a budget resolution, including debate time and germaneness. Despite these rules, the Senate has often set aside these rules and found clever ways to circumvent the rules. To restore some order to the process, the resolution I am offering today would require first-degree amendments to be filed at the desk with the Journal Clerk prior to the 10th hour of debate. Accordingly, second-degree amendments must be filed prior to the 20th hour of debate. This legislation would require a budget resolution to be set aside for one calendar day prior to the 40th hour of debate. Doing so would allow all filed amendments to be printed in the RECORD allowing Senators, and their staff, an opportunity for review before debate on the resolution continues. To preserve the integrity of these new rules, debate time may only be yielded back by consent, instead of the current procedure whereby time may be yielded at the discretion of either side.

Another problem has been the subversion with the budget's germaneness rules by offering amendments to deal with authorization and substantive policy changes. It is important to remember that the Federal budget has two distinct but equally important purposes: the first is to provide a financial measure of Federal expenditures, receipts, deficits, and debt levels; and the second is to provide the means for the Federal Government to efficiently collect and allocate resources. To keep the debate focused, amendments to the budget resolution must be germane, meaning those which strike, increase or decrease numbers, or add language that restricts some power in the resolution. Otherwise, a point of order lies against the amendment, and 60 votes are required to waive the point of order. Yet, to circumvent this germaneness requirement and inject debate on substantive policy changes, Senators have offered Sense of the Senate amendments and deficit-neutral reserve fund amendments that include exorbitant programmatic detail.

A sense of the Senate amendment allows a Senator to force members to either support or oppose any policy position they seek to propose. An excerpt of an amendment to the FY09 budget resolution follows:

Vitter Amendment #4299:

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the leadership of the Senate should bring to the floor for full debate in 2008 comprehensive legislation that legalizes the importation of prescription drugs from highly industrialized countries with safe pharmaceutical infrastructures and creates a regulatory pathway to ensure that such drugs are safe; (2) such legislation should be given an up or down vote on the floor of the Senate; and (3) previous Senate approval of 3 amendments in support of prescription drug importation shows the Senate's strong support for