and presented on the Senate floor. That is a false choice.

There is a third way, and that is attrition through enforcement or whittling down in a significant way this 13 million plus figure to something much smaller, much more manageable, through real enforcement measures, not only at the border which, of course, is necessary to make sure the numbers don't go up and up, but in the interior, specifically at the workplace.

According to a recent Zogby poll, when given the choice between mass deportations, mass amnesty, and the third way, attrition through enforcement, a majority of Americans clearly choose attrition through enforcement. Of course, most polls leave out that option. Most polls promote the false choice. Most debate, quite frankly, on the Senate floor promotes the false choice, but it is false. There is this real alternative.

How do we get there? Two main ways: border security—the good news there is we have begun to make inroads, spending $3 billion on significant new border security in the last appropriations cycle, and that was positive follow-on to the defeat of the amnesty bill last summer. But there is also a second key ingredient, a second key ingredient that has been largely ignored and not addressed in this effort, and that is interior enforcement, particularly at the workplace.

In my opinion, that is the missing link, the missing piece of the puzzle to make all of this begin to come together. Border security is crucial. We have done significant work there. We need to do much more. But interior enforcement and enforcement at the workplace is at least as crucial. We need to have a real system that works for that security—a real-time database, not a system based on paper documents which can so easily be forged—to ensure that companies only hire folks in this country legally. When we have that system in place, that will change the dynamics overnight. That will begin this process of attrition through enforcement. That will bring that 13 million plus number down significantly, if we truly have the political will to produce a system, a real-time database, a nonpaper system to ensure that employers only hire folks in this country who are here legally. If they do otherwise, then, of course, they should be hit with significant criminal penalties.

So, again, I am proud to announce the organization of this new caucus: the Border Security and Enforcement First Caucus. My colleagues will be hearing a lot more from us in the coming days and months as we repeat the message delivered by the American people last summer so loudly, so clearly: We don't want amnesty. We do want enforcement first, including workplace enforcement, including interior enforcement that can lead to attrition through enforcement. Hopefully, we can begin to get our hands around this very crippling, potentially debilitating problem of illegal immigration.

Madam President, I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Washington is recognized.

Mrs. MURRAY. How much time is left?

The PRESIDING OFFICER. There is 14 minutes 16 seconds.

THE BUDGET

Mrs. MURRAY. Madam President, I rise this morning to respond to the ranking member of the Budget Committee, who came out a few moments ago to talk about the budget. We are in the process right now of putting together this year's budget. It will be voted on in committee today or tomorrow and, of course, then out here on the floor. We will have a lot of floor time over the next week to discuss the budget.

I felt it was really important to set the record straight because it is that rhetorical time again when we will hear our colleagues on the other side of the aisle come out and say Democrats are tax-and-spend liberals. Let me set the record straight.

Last year's budget had a $180 billion tax cut in it—not for the wealthiest Americans but for hard-working middle-class Americans.

We worked very hard to put together a fiscally responsible budget. We are not going to sit here and listen to ''tax and spend'' thrown at us time and time again when, in reality, with the Democratic President 7 years ago we came into the time with a budget that had a surplus, which we soon saw diminished incredibly, and we are now in deficit spending because of an irresponsible tax cut the Republicans have been pushing for the wealthiest of Americans, which even Senator JOHN MCCAIN didn't vote for at the time. It did leave us without the capacity to make sure we had the investments we needed to be able to ensure that Americans can stay in their homes; that they can have roads they can drive on to get to work; that they can make sure their children have the kind of education they need so they can get a job and contribute back to this country; and, importantly, to take care of our veterans who are coming home from Iraq and Afghanistan and finding long waiting lines at our medical facilities and not getting the adequate care they need.

The budget that the Budget chair will present this afternoon is, once again, a fiscally responsible document that understands the needs of Americans and will make sure we are responding to the crisis we are in today in this country and invest in America's people. It is fiscally responsible. It is not about tax cuts or tax increases, it is about making sure we have the revenues available to make sure every single American today has the opportunity that is available for them, that dream that they can live to be a strong American citizen and to keep our communities and America strong.

So I reject the argument that we all hear thrown at us time and again that Democrats are ''tax-and-spend'' liberals. We are fiscally responsible Democrats, and we are proud of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, as I understand, we are still in morning business.

The PRESIDING OFFICER. That is correct.

Mr. PRYOR. I ask unanimous consent that we yield back the time, and it is my understanding that more Senators would like to speak this morning.

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

Mr. PRYOR. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CPSC REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2663, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Pryor amendment No. 4090, of a technical nature.

Cornyn amendment No. 4094, to prohibit State attorneys general from entering into contingency fee agreements for legal or expert witness services in certain civil actions relating to Federal consumer product safety rules, regulations, standards, certification, or labeling requirements, or orders.

DeMint amendment No. 4096, to strike section 21, relating to whistleblower protections.

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

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I wish to notify our colleagues that I think we are making great progress on this legislation. Senator CORNYN is here to talk about one of his amendments. We know there are a few other amendments that are being discussed right now, maybe in the cloakrooms or in Senators' offices. That is very encouraging. The feedback we have received has been very positive. It looks as if there are some amendments that will require votes.

I encourage all Senators who would like to come and speak to make plans to do that at some point today. I encourage anyone who has any amendments that they would like to have

considered to run those down to the floor as quickly as possible, if they have not already. We are really making good progress. I was encouraged yesterday by the vote we had at 5:30.

Here, again, we find that the Consumer Product Safety Commission is an agency that needs our reform. They need us to come in and to not just give them more resources—it is not a matter of just throwing money at the problem. They need more tools in their tool box and more resources and a little bit of restructuring. It has, again, been the goal of this legislation to make sure the American marketplace is safe, make sure that when people go to a store and buy a product, they can rely on the fact that there are safety standards, that it doesn't have materials in it that are dangerous or harmful. Really, this is an effort for us to accomplish something great in this Congress, in this election year, for the people of this country. So I thank all my colleagues on both sides of the aisle for their diligence in trying to get this done.

I ask any colleagues who would like to speak or anyone who has an amendment, please let us know because I am starting to get this sense that there are many who would like to wrap this bill up as quickly as we can.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I again congratulate the Senator from Arkansas and the Senator from Alaska for working on an important piece of bipartisan legislation, this reform of the Consumer Product Safety Commission. This is very important to all Americans.

I agree that we ought to be able to move through the amendments that are being offered. I have tried to offer amendments early so we don't backload them and create problems later in the week. I appreciate what the Senator from Arkansas had to say.

I have one amendment pending. In a moment, I intend to offer another amendment, so it will be pending. I have told Senator PRYOR that I am more than happy to agree to a short time agreement and a time for a vote after a debate and everybody has had a chance to be heard. These are not complicated amendments, but they are important. I hope we can move through this and vote on the amendments and complete our work shortly.

I told Senator PRYOR that I do have another amendment I would like to call up and get pending.

AMENDMENT NO. 4108

Mr. CORNYN. Madam President, at this time, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4108 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object, once the Senator finishes his presentation, we will go back to the pending amendment.

Mr. CORNYN. I agree.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 4108.

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

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

The amendment is as follows:

(Purpose: To provide appropriate procedures for individual actions by whistleblowers, to provide for the appropriate assessment of costs and expenses in whistleblower cases, and for other purposes)

On page 63, strike line 6 and all that follows through page 64, line 6, and insert the following:

in an amount not to exceed $15,000 for costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

''(C) If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding $15,000, to be paid by the complainant.

''(4)(A) If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(B).

''(B) In an action brought under subparagraph (A), the court may grant injunctive relief and compensatory damages to the complainant. The court may also grant any other monetary relief to the complainant available at law or equity, not exceeding a total amount of $50,000, including consequential damages, reasonable attorneys and expert witness fees, court costs, and punitive damages.

''(C) If the court finds that an action brought under subparagraph (A) is frivolous or has been brought in bad faith, the court may award to the prevailing employer a reasonable attorneys' fee, not exceeding $15,000, to be paid by the complainant.

Mr. CORNYN. Madam President, I will explain to my colleagues what the amendment does.

Under the bill as offered, it creates, unfortunately, a bounty, so to speak, for alleged whistleblowers up to $250,000 in attorney's fees and penalties, which I think, rather than creating a level playing field and trying to address the legitimate concern that I happen to agree with, that people who disclose or identify illegal conduct need to be protected against arbitrary termination of their jobs when they are just trying to make sure the law is complied with and help contribute to the public safety. I think this bill, as currently written, tilts the playing field too far in favor of whistleblower complainants and has the unintended effect of encouraging frivolous and bad-faith allegations against employers.

So what my amendment would try to do would be to level that playing field while protecting legitimate whistleblowers but not actually encouraging people who have, perhaps, engaged in other misconduct and giving them a bounty, so to speak, to sue for under this statute.

Under the bill, an alleged whistleblower may file a complaint with the Secretary of Labor, and if the Secretary of Labor fails to act, then with the Federal district court. If the complainant prevails at a hearing or action, he or she can receive an unlimited amount of costs and expenses, including attorney's fees and expert witness fees. If the Secretary finds that the complaint is frivolous or brought in bad faith, the amount the employer can recover is limited to $1,000.

Let me make sure my colleagues understand that. If the employee prevails in the action, they can recover unlimited damages and costs, including attorney's fees and expert witness fees. If the Secretary of Labor finds at the administrative level that it is frivolous or brought in bad faith, the employer can only recover $1,000—obviously an unequal playing field and one that will have the unintended impact of encouraging bad conduct. If the case goes to district court, the employer cannot recover attorney's fees at all.

I submit that the rules ought to be fair for both parties and that $1,000 is not a significant deterrent to frivolous and bad-faith suits. If the complaint process is going to have any integrity, there have to be consequences for abusing the process with frivolous and bad-faith complaints.

What is more, the $1,000 limit on attorney's fees in the bill is inadequate to compensate an employer for the cost of defending against a frivolous or bad-faith complaint. An employer who is a target of such a suit will almost certainly incur more than $1,000 in fees just to have a lawyer review the file, file a brief, and attend a hearing. If the case goes to district court, the attorney's fees will be even greater but will not be recoverable at all under the bill as written.

This amendment levels the playing field by capping the costs and fees recoverable for both parties.

I might just add that I have to raise the question of whether a whistleblower provision is necessary. We are still researching the matter. Under most State laws, including the law in the State of Texas, an employer cannot fire an employee for reporting unlawful conduct. There are already remedies in place under State law, and I have to question whether it is necessary to create an additional remedy under Federal law. Assuming there is, I think we should, I hope, agree that there ought to be a level playing field.

My amendment strikes a reasonable balance between the interests of punishing retributive employer conduct and of discouraging frivolous and bad-faith claims. The amendment punishes wrongdoers and makes victims whole without creating incentives for employees to sue employers for frivolous or harassing reasons.

The amendment is fair to complainants, who can recover costs and fees whenever they prevail, as opposed to employers, who can recover only when the whistleblower complaint is shown to be frivolous or brought in bad faith. My amendment fully compensates complainants who prevail. Complainants can still get unlimited injunctive and compensatory relief. In other words, they can get their job back and recover backpay to be made whole. In addition, complainants can receive consequential and punitive damage that are not available to the employer, which is why the amendment allows complainants to recover up to $50,000 in total costs and fees and consequential and punitive damages, while employers can receive only $15,000 in attorney's fees.

I believe this is a reasonable amendment offered in the spirit of compromise, and I hope the other side will take a look at it and agree to accept the amendment. If not, I am willing, as I said earlier, to agree to some reasonable time agreement so we can debate it further and then have a vote on it.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, before the Senator from Texas leaves, I wish to thank him publicly. He has been very constructive in this process. He has offered a couple of amendments that he feels very strongly about, and we met with him and his staff on them. So I have talked to him about them. He is being very constructive in the process. I thank my colleague from Texas.

The other thing I noticed, Madam President, is that Senator COLLINS of Maine just walked on the floor. This bill has been called the Pryor-Stevens bill, but I could not exaggerate the amount of contribution Senator COLLINS has made to this effort as well. I have found her, in the last 5 years, to be a wonderful colleague to work with. She has made this bill better in some very fundamental ways—maybe not very exciting ways, but she really focused on one of the major problems we have with the CPSC today, and that is that the CPSC, with all due respect to the people who work there, has been almost incapable of dealing with imports in the way they should.

Senator COLLINS, I believe, had four amendments. We accepted all four. We have worked with her office and with her personally to make sure the language is right, to make sure the policy is right, to make sure it is smart law, which I think it is, and also to make sure it is a big improvement over the present situation; I don't think anybody can look at her sections of the bill and ever say she is not greatly improving our ability to protect our shores from dangerous and unsafe products. I am certainly glad she is here this morning to help manage this legislation.

The other point I wish to add is, Senator COLLINS has a lot of respect on both sides of the aisle. The fact that people know she worked on the legislation gives a comfort level on both sides of the aisle, but certainly on the Republican side, because they have seen how she has conducted her business since she has been in the Senate, but also the fact that she has had hearings in her committee on CPSC and some import problems. She has been a key player, a key architect in this legislation. I thank her.

I know we are going to have a lot of amendments today and a lot going on in this Chamber. We are going to try to clear a lot of amendments. Again, I encourage colleagues to come to the floor if they do have amendments or wish to speak. We are going to try to be in that process today of clearing amendments, putting a managers' package together, and having votes.

Before the day got crazy and confusing, I wanted to thank Senator COLLINS for her leadership.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Madam President, I ask unanimous consent that I be allowed to speak for up to 15 minutes in morning business.

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

CONGRATULATIONS TO SENATOR JOHN MCCAIN

Mr. MARTINEZ. Madam President, before I begin my remarks regarding the very difficult situation that has arisen in South America between Colombia and some of its neighbors, I wish to take a moment this morning to congratulate our colleague and dear friend, Senator JOHN MCCAIN, on his outstanding achievement last night, becoming the nominee of the Republican Party for the Presidential election and going forward as the nominee of our party for these upcoming elections.

Senator MCCAIN is an example of resiliency in his life story but also particularly in this election. I am extremely proud to call him a friend, and I certainly wish him the very best as he goes forward. I know all of us in the Senate take great pride in the fact that he is going to be the nominee of one of our major parties. I wanted to note that event and give him my best wishes and congratulations on this very important achievement for him.

VENEZUELA-COLOMBIA CONFLICT

Madam President, I know many of us in this Chamber, across the country, and, frankly, across the Western Hemisphere and the world are watching with concern the reports about the situation developing between Colombia and Ecuador and the complicating elements to it brought on by Venezuela.

This past Saturday, Colombia conducted an antiterrorist operation. The Government of Colombia does this on an ongoing basis because Colombia has been attacked and under siege by a group of people who seek the overthrow by violence of that Government. So as they often do, this Saturday, they conducted an operation which required an airplane flying within the Colombian airspace to fire into Ecuadorian territory by only a few feet. Then Colombian troops entered that area to clean out what appeared to be a permanent base camp of the FARC, the Revolutionary Armed Forces of Colombia which has ravaged Colombia for now over 25, 30 years as an illegitimate terrorist organization bent on killing, kidnapping, and maiming. The result of that action was the No. 2 leader of the FARC was killed.

The FARC is the oldest, largest, and best equipped insurgency. As a result of the actions of the Colombian military, with assistance and training from the United States, this insurgency has been lowered in its numbers from the times when it was many thousands. Today it is believed to be between 6,000 and 9,000 strong. It has for decades aggressively sought to disrupt and destabilize the Colombian Government. Its stated goal is none other than ''the violent overthrow of the Colombian Government.''

Let there be no doubt that this is a terrorist organization. They kill, they kidnap, they hold innocent people for ransom while funding all of its violence by actively engaging in narcotics trafficking. We now have learned they do have other sources of funding, and I will get to that in a moment.

Just as Hamas and Hezbollah, the FARC operates by using ruthless terrorist tactics. According to the State Department's most recent Report on Terrorism, the FARC is known to routinely conduct crossborder operations. What they do is they will attack in Colombia. They will kill. They will throw bombs. They will kidnap in Colombia and then retreat conveniently to their borders in friendlier countries, such as Ecuador and Venezuela. Unfortunately, this new development has emerged because Ecuador has allowed its border with Colombia to be a sanctuary for the FARC.

As we continue to receive updates on this situation, we cannot lose sight of the fact that the FARC has repeatedly and violently infringed on Colombia's efforts at stability and democracy and is operating from a neighboring country using it as a sanctuary.

It is the FARC that has declared war against the Colombian people. It is the FARC that has killed and kidnapped thousands of civilians. They have kidnapped teachers, journalists, religious leaders, union members, human rights activists, members of the Colombian Congress, and Presidential candidates.

This organization today is known to be holding as many as possibly 700 hostages. During their reign of terror,

they have held at times as many as 100 American citizens. Today, they are currently holding three American citizens: Mark Gonsalves, Keith Stansell, and Thomas Howes. They have been held hostage by the FARC for over 5 years, living in subhuman conditions in the jungle, chained to trees. This is the fate of three Americans at the hands of the FARC.

In December of 2007, the Senate approved a resolution condemning the kidnaping of these three United States citizens and demanded their immediate and unconditional release. It is time that these three Americans be released. Their families have suffered long enough. It is time that the FARC be called by the international community to end their reign of terror.

I believe Colombia has had no choice but to continue to confront this aggression led by the FARC by military means. The antiterrorist strike of this past Saturday resulted in the death of Raul Reyes, a well-known senior leader of the FARC—No. 1, maybe No. 2.

So who was Raul Reyes? He was a notorious and ruthless criminal who had been long sought by our Government and the Government of Colombia. He is on the FBI's most wanted list. He is on Interpol's most wanted list. Since May of 2007, Reyes has been listed on the U.S. Department of the Treasury's foreign narcotics kingpin designation list, and in March of 2006, Reyes was among 50 FARC members indicted by the Department of Justice on drug and terrorism charges. So until his death, he was a fugitive of American justice. He was wanted by the Colombian Government on more than 100 criminal charges, including more than 50 homicides, and his actions should be condemned by all of us and by the international community.

Among the items retrieved by Colombia during the antiterrorist strike, among other things, was Reyes's laptop. What a trove of information it appears to have yielded. I have received copies of some of the documents recovered from the laptop, and they show a consistent pattern of communication and cooperation among Venezuela and the FARC, among the Government of Ecuador and the FARC, President Correa sending personal communications and his foreign minister to meet with Mr. Reyes; this avowed terrorist, this criminal of international justice meeting with a foreign minister, dealing as if he were a head of state.

A copy of one letter recovered from a senior leader of the FARC to Chavez states that ''it is important for his government and the FARC to maintain close ties'' to ensure the success of their efforts. And part of the report obtained from these computer files indicates that the FARC may have received or was in the process of receiving as much as $300 million in financial support from Venezuela.

We know that the Government of Venezuela, while its people are suffering shortages of goods, while the people are having to endure rationing and lines to get foodstuff for their children, this Government, now awash in petrodollars, is utilizing its funds, as we have now seen through indictments in the Southern District of Florida, to meddle in the elections of other countries by sending cash, and now to meddle in the peaceful pursuit of Colombia's democracy by giving $300 million to a terrorist organization attempting to overthrow by violence the Government of Colombia.

I wish to address the confrontational behavior of Venezuela regarding this situation which happened between Ecuador and Colombia. I am not sure what Venezuela's business is in this matter. Venezuela's leader Hugo Chavez has decided to take an aggressive stance. He has threatened Colombia with military action and has amassed troops along the Venezuela-Colombia border. That is at the complete opposite end of the country. The Venezuela border has nothing to do with the Ecuador and Colombia border. He is attempting to divert international attention from the very embarrassing facts that are being yielded from the computer files that have been found. He is trying to divert national and international attention from the suffering of his own people as a result of his mismanagement of their economy, as a result of his mismanagement of the wealth he is obtaining through oil.

He has no role in this bilateral matter between Ecuador and Colombia, and yet he is attempting to derail any efforts of resolution, including the ongoing negotiations of the Organization of American States. In fact, my colleague Senator DODD clearly stated yesterday that Venezuela's ''recent troop buildup in the region is an irresponsible and clearly provocative act aimed at inciting further hostility.''

It is good to note that the Government of Colombia has used restraint. They have not deployed troops. They have simply been going through computer files learning the truth about the relationship between these governments and this illegitimate terrorist group.

It is clear that Venezuelans are growing increasingly disenchanted with their Government's unfulfilled promises and Chavez is trying to exploit the situation with Colombia and Ecuador to distract the world from the shortcomings of his Government's policies. This is an old trick, tried and failed repeatedly in Latin America and elsewhere in the world. It is not working and will not work.

This January, Chavez began calling for removal of the FARC from the terror lists of Canada and the European Union. Chavez has stated that the FARC is not a terrorist group, claiming incomprehensively that they are a ''real army.'' he says they are a ''Bolivarian'' army that follows the spirit of the South American liberator Simon Bolivar. Nothing could be further from the truth. These claims are completely divorced from the reality of what the FARC is and what they represent to the Colombian people and to the region.

In recent testimony, the Director of National Intelligence Mike McConnell told us that ''. . . since 2005, Venezuela has been a major departure point for South American—predominantly Colombian—cocaine destined for the United States market and its importance as a transshipment center continues to grow.''

It is clear that Venezuela is not a part of the solution; it is a part of the regional narcotrafficking problem.

Venezuelan ports are increasingly becoming the departure points of choice for Colombian traffickers. According to both the National Intelligence Center and Office of National Drug Control Policy, private aircraft are increasingly choosing to route cocaine shipments from Venezuela to the island of Hispanola rather than relying on go-fast boats from Colombia because Venezuelan complicity makes it safer to do it that way.

It is also well known that both trafficking groups and guerrilla groups enjoy safe haven inside Venezuela along the border with Colombia.

Chavez has acknowledged his sympathy and support for the FARC, despite the fact that they are also currently holding upwards of 200 Venezuelan nationals as hostages. The Colombian people are well aware of the barbaric practices of the FARC, and yet they are resilient people.

On February 4, a few weeks ago, millions of Colombians peacefully took to the streets in Colombia to demonstrate against FARC's violence and terrorism, demanding ''No more FARC.''

Countless others joined similar peaceful demonstrations in the United States and around the world. An example of their resolve in the face of ruthless FARC violence is Colombia's Foreign Minister, Fernando Araujo. I have had the privilege of meeting the Foreign Minister. He has been serving his nation capably for now almost a year, after bravely enduring 6 years of captivity at the hands of the FARC and surviving a miraculous escape in February of 2007. Minister Araujo is a symbol of freedom and hope for a better future without terrorism.

The killing of Raul Reyes is another success of the Colombian Government's increased efforts to combat terrorism, investigate terrorist activities inside and outside Colombia, seize ill-gotten assets, and bring terrorists to justice.

This operation is a testament to Colombian Armed Forces' professionalism and competence and a success for the Colombian Government's efforts to combat terrorism, investigate terrorist activities inside and outside Colombia and to seize assets and to bring terrorists to justice.

President Uribe is a committed leader and our country will and should continue to support his mission. This

President was reelected overwhelmingly by his people and today enjoys an 80-percent approval rating among the Colombian people.

President Bush could not have been clearer yesterday when he stated that:

America fully supports Colombia's Democracy [and that we will] firmly oppose any acts of aggression that could destabilize the region.

In the Congress, the best way we can show our support for democracy and the need for stability in Colombia is by ensuring the passage of the Colombian Free Trade Agreement.

President Uribe has consistently made clear that passage of that agreement will show the Colombian people democracy and free enterprise will, in fact, lead to a better life for all Colombians.

The Colombian people and President Uribe have made clear their commitment to a hopeful future of a stable democratic and economically thriving Western Hemisphere. The FARC is our common enemy, and we owe our continued support to Colombia as it carries this shared fight against terrorists and drug traffickers.

The Colombian Ambassador was clear in his comments at the OAS yesterday. His country ''has not sent troops to their borders.''

He further stated their goal is to resolve this situation with continued discussion and cooperation.

As we are ourselves fighting a global war on terror, we have to understand terrorism anywhere is terrorism that we need to be against. Groups that rely on violence and terror are not acceptable in the world in which we live. The FARC's time has come. It is over. It is time for us to clear the cobwebs of confusion about this group, to not allow Chavez to make this group into something other than what they are, a group of terrorist killers, kidnapping and maiming people for the sake of their misguided political aims, which are to destabilize the democratically elected Government of Colombia.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY.) The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business on an issue that is very important to my State.

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

AIR FORCE TANKER CONTRACT

Mr. BROWNBACK. Mr. President, I thank my colleagues for allowing me a few minutes to speak about the tanker contract going to the Airbus-Northrop Grumman consortium. I am still worked up about this; I am going to be worked up about this for some period of time. This is a big impact contract. I want my colleagues to think for a minute about this, about us subcontracting out the building of our ships, our ships to the lowest bidder around the world.

If we said: OK. We are going to start building our ships wherever we can get the cheapest hulls for them, do you think we would be building them in the United States?

OK. I think other countries or other countries' governments would say: Well, now, here is a good deal. We want to be in shipbuilding, and so we are going to subsidize our way into this.

Do you not think we probably would end up building these ships in other places overseas? What we have taking place in this country is Airbus, which is subsidized with aid by European governments, is going to build basically these tanker planes and is going to fly them over here and then they are going to be fitted or militarized in this country. That is what is going to take place.

They are going to fly the whole plane over here and then militarize it. Now, is this a European plane or is this an American plane? This is an Airbus plane. It is going to be Airbus components. It is going to be built, it is going to be manufactured, it is going to be done there.

I ask my colleagues to think about this. Is this the right thing we want to do? Do we want our tankers and then our AWACS and our ships and our submarines, bid them out to the lowest bidder? In this process, my guess is we will have a lot built in Asia and South America and Europe and subsidized by governments.

I do not think this is the way we want to go. So before we move forward on this issue, I think we need to ask and have answered several questions. No. 1, what is the economic impact to our Treasury of outsourcing our military construction? These jobs are going overseas. That has an impact to our Treasury of the jobs being overseas instead of here.

Let's have a real, true economic picture of this taking place. I think we ought to have that. No. 1, I think we need to know the direct and indirect amount of the subsidization Airbus is giving to this plane to be able to get this contract. Because here we have a 40-percent bigger plane being produced by Airbus, at a substantially lower price than the Boeing aircraft, and they are not beating us on labor costs. They are certainly not beating us on exchange ratios, given the dollar to the Euro ratio.

There is no way to do this without heavy subsidization, either direct or indirect. You cannot do this without some subsidization. OK. Fine, let's find out what the number is, and then let's start where I guess we are going to have to compete on a subsidy, we compete on subsidization. But I think we need to know that number before we go forward with a multidecade, $40 billion contract of made-in-Europe tankers.

No. 3, I think we need to know our security vulnerability before we make those tankers overseas. I think there is a very real prospect that in the future, if we are involved in supporting the Israelis, and the Europeans do not like it, they want to go more with the neighbors in the neighborhood, they say: OK, we are not going to give America flyover rights over Europe, and also we are not going to sell them spare parts on these tankers. I think we need know what the security vulnerability is before we go forward with this as well, and that needs to be appraised.

Finally, I would urge and we are starting to look at ''Buy American'' provisions in our military contracts. I am a free-trade person, but I think you ought to compete on an equitable playing ground, and that if they are going to subsidize, then we have to subsidize if they are; otherwise, we force them not to subsidize.

Also, on defense, we should not be dependent upon foreign governments for our Defense bill's military construction, particularly when they depend upon us for a lot of the security, and then they get the big contract to build the equipment.

I do not think this is fair at all. I do not think it is the right way for us to go. I think we have several vulnerabilities. I think if you look at a full economic picture of shooting these jobs overseas, of what that does to our Treasury versus buying a cheaper, subsidized European plane versus buying an American plane, where you are having your full costs, but your workers are here and they are paying taxes here, my guess is to the Federal Treasury it is a net positive for us to build them here, even if the plane costs us a bit more because we do not subsidize the price of the plane such as the Europeans are.

I have been in this fight previously on civil aviation, where the Europeans subsidized their way into that business. Now they are doing it in the military contract area. I do not think we ought to do it, particularly on a contract that is going to last decades.

So these are several questions we are going to be working on along with my other colleagues. I would hope we ask these big questions and get them answered before this big contract is let.

Are we are starting to build our defense industry in Europe rather than in the United States? I wish to thank my colleagues for allowing me to speak on this issue.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4105, AS MODIFIED

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to set aside the

pending amendment and call up my amendment, No. 4105, as modified.

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

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota [Ms. KLOBUCHAR], for herself and Mr. MENENDEZ, proposes an amendment numbered 4105, as modified.

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

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

The amendment, as modified, is as follows:

On page 3, beginning with line 16, strike through line 3 on page 4, and insert the following:

''(a)(1) There are authorized to be appropriated to the Commission for the purpose of carrying out the provisions of this Act and any other provision of law the Commission is authorized or directed to carry out—

''(A) $88,500,000 for fiscal year 2009;

''(B) $96,800,000 for fiscal year 2010;

''(C) $106,480,000 for fiscal year 2011;

''(D) $117,128,000 for fiscal year 2012;

''(E) $128,841,000 for fiscal year 2013;

''(F) $141,725,000 for fiscal year 2014; and

''(G) $155,900,000 for fiscal year 2015.

''(2) From amounts appropriated pursuant to paragraph (1), there shall shall be made available, for each of fiscal years 2009 through 2015, up to $1,200,000 for travel, subsistence, and related expenses incurred in furtherance of the official duties of Commissioners and employees with respect to attendance at meetings or similar functions, which shall be used by the Commission for such purposes in lieu of acceptance of payment or reimbursement for such expenses from any person—

''(A) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

''(B) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.

Ms. KLOBUCHAR. Mr. President, as a member of the Commerce Committee, I appreciate the leadership of Senator PRYOR on this bill and the work all of us did, as well as Senator DURBIN and Senator NELSON. I believe this is landmark legislation. I have been to this floor many times to talk about this bill, how important it is to have that Federal mandatory lead standard, as well as the recall provision our office was instrumental in writing.

I think it is a very good bill. There is one change that I think would make it even better. This is an amendment Senator MENENDEZ and I have.

The Consumer Product Safety Commission Reform Act is not just about increasing staffing, funding, and oversight of the Consumer Product Safety Commission, it is also about making the Commission more accountable to the public.

The Commission must make consumer safety an absolute priority. But it must also perform its duty outside the influence of the people whom it is supposed to regulate, outside the influence of the manufacturers, the retailers, the lobbyists, and the lawyers.

In November 2007, however, an appalling picture of the CPSC came to light. What you have to understand is when we found out about this travel, hundreds of trips and thousands of dollars of travel that had been paid for by the industry that this Commission was supposed to regulate, we were in the midst of this bill, we were in the midst of looking at recalls, now up to 29 million toys that have been recalled.

We were in the midst of finding out about kids who went into a coma from swallowing an Aqua Dot that turned out was laced with the date rape drug. That is what we were doing when we found out that for years the head of the Consumer Product Safety Commission had been traveling on the consumer dime, on the dime of the industries they are supposed to be regulating.

Through an article in the Washington Post, we learned that thousands of dollars' worth of travel had been taken by the current Consumer Product Safety Commission Chairwoman Nord and her predecessor, Hal Stratton.

Since 2002, Chairwoman Nord and former Chairman Stratton took 30 trips—30 trips—on the trade associations', manufacturers', lobbyists' or lawyers' dime, totaling nearly $60,000. So that is 30 trips totalling nearly $60,000.

In one particularly egregious instance, the Consumer Product Safety Commission Chairman accepted $11,000 from the fireworks industry for a 10-day trip to China. The claim was the industry had no pending regulatory requests but had a safety standard proposal before the Commission. Now, you try to tell this to the moms whom we were with yesterday, of those kids who were swallowing toys, one that was laced with lead and one had morphed into the date rape drug. You tell them they had the proposals before them—and they were not pending regulatory requests but they were proposals pending—they would see through this.

This kind of abusive Government practice must end. With this amendment, the amendment that Senator MENENDEZ and I have offered, no Commissioner or employee of the Consumer Product Safety Commission can accept payment or reimbursement for travel or lodging from any entity with interests in their regulations. So it simply means people and the companies the Consumer Product Safety Commission is regulating cannot pay for their trips to China or their trips to Florida or to California. It is that simple.

Now, what is interesting about this is that many agencies, including the Securities and Exchange Commission, the Food and Drug Administration, the Federal Communications Commission, and the Federal Trade Commission, have similar rules restricting industry-sponsored travel. CPSC doesn't have that rule. As the Senate considers this sweeping reform in consumer product safety, we believe we should be free of any appearance of impropriety or undo influence of regulated industries on the CPSC.

Senator MENENDEZ has a bill, a very good bill—and I am a cosponsor; many people are cosponsors—that extends this to all agencies. And I hope very much the Senate will consider this bill very soon. I am so pleased we are working together on this amendment, which is focused on the Consumer Product Safety Commission. Leaving the Commission vulnerable to charges of impropriety is simply unacceptable, especially at a time when the public has completely lost faith in the CPSC's ability to regulate the industries they are supposed to be watching.

Ethics is at the core of government and democracy. Without ethical leaders, our entire system fails. Ethics is woven into the very fabric of how government works, and ethics reform goes to the very heart of our democracy, to the public trust and respect that is essential to the health of our Constitution.

Like you, Mr. President, I came to Washington to bring ethical government back to the city, and I am so proud that shortly after we joined the Senate, the most sweeping ethics reform legislation since Watergate passed the Senate and became law. But as seen by the actions of the Consumer Product Safety Commission, our job does not stop with one law. We must be resolute that ethical government is not optional, it is not voluntary, and it is not limited to elected officials.

With this amendment, we will send a signal to the Commission that their priority is keeping consumers safe. Their priority is not going on trips financed by the people they are supposed to regulate. Their priority is looking out for those two kids who almost died from those toys, or the family of little Jarnell Brown, that is still watching what is happening here today—this little 4-year-old boy who died when he swallowed a charm that was 99 percent lead. That is their job, not going on trips paid for by the fireworks industry.

It is my hope that my colleagues will support a travel ban amendment to the Consumer Product Safety Reform Act of 2008. I am very pleased to be sponsoring this amendment with my colleague from New Jersey, Senator MENENDEZ.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I am proud to stand here with the distinguished Senator from Minnesota to offer an amendment that prohibits members of the Consumer Product Safety Commission from taking trips paid for by the industries they regulate.

Not long ago, this body overwhelmingly voted to prohibit Members of Congress—Members of this body—from taking trips sponsored by lobbyists—

from taking trips sponsored by lobbyists. That is what there was an overwhelming bipartisan vote for. There is absolutely no reason members of the Consumer Product Safety Commission should not be held to the same high standard, particularly given the outstanding number of products that were recalled last year because they were deemed unsafe for American consumers to use after they were placed on the shelves in our stores, bought by our families, and used by our children.

Perhaps most disturbing, the most common victims of these regulatory failures were children—children who played with toys and slept in cribs that the Consumer Product Safety Commission allowed to come to market, children who were seriously injured as a result.

Last year, we saw a toxic toy shipped in from China laced with lead paint that could cause permanent neurological damage or death. We saw car seats dump out the kids who sat in them. We saw beads that contained a chemical that could put children into a coma if swallowed. We saw cribs that would fall apart if an infant pulled on their pieces.

This year is shaping up to be just as tragic. In January, there was a recall of toys with magnets that could cause fatal intestinal blockages if swallowed. Last month, we had a scare about children's sketchbooks coated with potentially fatal levels of lead paint.

So the question Americans are asking themselves is, isn't somebody supposed to be watching to make sure this doesn't happen? And the answer is, absolutely. That is the very mission of the Consumer Product Safety Commission, to make sure products sold in the United States are safe for American consumers, safe for our families. But members of the Consumer Product Safety Commission were busy doing other things.

There are a lot of problems plaguing the Commission, and I will return to the floor to talk in detail about many of them another time. I certainly appreciate the work that has been done by the distinguished chair of the committee and the ranking member in moving a bill that I think goes a very long way towards achieving the goals of knowing that in America our families will be safe from the products that are put on our shelves, and for this I commend them. However, despite the progress we have made under the leadership of Senator PRYOR, there are still issues to be resolved. Most notably, we see that officials of the Consumer Product Safety Commission, tasked with protecting American consumers, were too busy taking trips sponsored by the very companies they were supposed to keep an eye on.

Mr. President, we should never again have to worry that our children are playing with lead-filled toys while the people who should be looking out for them are hopscotching around the world with corporate bigwigs. This is toxic travel, and we have to put an end to it. The American people deserve to have objective, professional safety inspectors, not wined and dined, pampered corporate houseguests. We need to make sure these product gatekeepers are looking out for one interest, and one interest only: the well-being of the American people.

That is why Senator KLOBUCHAR and I are offering this amendment: to prohibit product regulators from taking trips sponsored by the industry they regulate. I think Americans listening across the landscape of our country would say that is just common sense. Regulators should never be indebted to those they regulate. They should never be compelled to let a product slip by as thanks to the great golfing they shared or the fabulous trip they took, while children suffer as a result.

So let me close by thanking my colleague, Senator KLOBUCHAR, a member of the committee, for taking the lead in the committee to improve the safety of the products that end up in the hands of our children. It has been a privilege to work with her on this amendment. And I certainly hope our colleagues will join us in saying, as they did in setting the high standard for every Member of the Senate in prohibiting travel paid for by lobbyists, that those who are there to protect the very essence of our safety and our lives and those of our families should live to no less a standard.

I urge my colleagues to support the amendment.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin by commending the Senators from Minnesota and New Jersey for bringing forward this amendment. Many of us, I think all of us, were troubled by the press reports last fall that suggested that the current and previous Chairman of the Consumer Product Safety Commission accepted reimbursement from entities that they were regulating when they were traveling. For example, trade associations, manufacturers of products, and other entities paid for trips that totaled nearly $60,000.

The Klobuchar-Menendez amendment is intended to make clear that taxpayer money should be used for that travel in order to remove the appearance of a conflict of interest that arises when the members of the Commission receive reimbursement for travel from regulated entities.

I do want to make clear that the Commission's ethics officers reviewed these trips and found that there was no conflict of interest. But the fact is, there is an appearance of a conflict of interest. Receiving reimbursement from regulated entities creates the appearance that the decisions that are subsequently made by the Commission members may be tainted by a conflict of interest. The fact is, this kind of appearance of a conflict of interest shakes the consumers' confidence in the impartiality of decisions that are made by regulatory agencies.

Now, I do want to emphasize that these trips may well have been justified. Governmental officials cannot and should not make all of their decisions within the confines of their offices. They can learn a lot about the issues by taking official travel, by going out into the field, by reviewing a manufacturer's procedures, by traveling to a port, by undertaking completely legitimate travel. But at least the appearance, and in some cases an actual conflict of interest, arises when this travel is subsidized or paid for totally by the regulated entity. So I view this as a good government amendment, an amendment that will help to restore the confidence of consumers, of the public, in the regulatory process.

I also want to make clear to some of my colleagues, particularly on my side of the aisle, that the amendment put forth by the two Senators does not increase the budget of the Consumer Product Safety Commission beyond the amounts authorized in the underlying bill. Instead, what their amendment would say is that up to $1.2 million of the budget of the amount appropriated can be used for the Commissioners' travel in lieu of the Commissioners' accepting payment or reimbursement for travel from any person or entity that is seeking official action from, doing business with, conducting activities regulated by, or whose interests may be substantially affected by decisions made by the Commission.

This is a commonsense amendment. It will advance the public's confidence in the decisions that are made by this important regulatory Commission. It is very much in keeping with the bill that we put forth, and I believe we will be able to work out something on this amendment later in the day.

I do want to point out to my friends on the other side of the aisle that there is also an amendment pending by the Senator from Texas, and I believe it is the managers' intent to try to package a series of amendments at the same time. But for my part, I think this amendment makes a great deal of sense, and I commend the two Senators for bringing it forward.

Mr. President, let me also take this opportunity to thank the manager and author of the bill, Senator PRYOR, for his thoughtful comments earlier this morning about my contributions to the bill. It has been a great pleasure to work with Senator PRYOR on this bill. We have worked together on a host of issues, and I commend him for his leadership in helping to ensure that the toys and other consumer products that reach our store shelves are as safe as they can be. In particular, his commitment to making sure the children of America are receiving safe products is commendable.

So I thank him for his kind words, and it has been an honor to work with him on this bill.

I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

FISCAL SECURITY

Mr. ENZI. Mr. President, I rise to discuss my concerns with the fiscal security of our country. This week we are considering the fiscal year 2009 congressional budget resolution in the Budget Committee. As stewards of the public trust, the Congress needs to make hard choices necessary to leave a fiscally and economically sound country to our children and grandchildren. Unfortunately, the easy road is where we have already trod. The budget we will be working on today is another slip of paper in a trail leading this country to financial ruin. We simply cannot sustain the current level of spending which is spiraling out of control. I know that crafting an annual budget is a difficult task, but it is important. This document is a vital part of the operation of Congress. It sets a fiscal blueprint that Congress will follow for the year and establishes procedural hurdles when these guidelines are ignored. As stewards of the public trust, we owe to it all American taxpayers to use the funds they provide us in the most effective and efficient means possible. If we do that, we provide future generations with a strong and secure U.S. economy. If we don't, then the children of America's future will be waking up to something very unpleasant.

As an accountant, I particularly enjoy this opportunity to look at the overall spending priorities of our Nation. Fiscal year 2009 will be another tight year for spending. It will not be good enough to have another pass-the-buck Democratic budget like the one we saw last year, which I did not support. If we consider another budget this year that is tax and spend, more and more taxes to pay for more and more spending, I will vote against it again. We must begin this year's debate on a fiscal year 2009 congressional budget resolution with a clear understanding of our responsibilities. We cannot accept a repeat of last year's empty promises, of reducing the debt and reforming entitlements.

What actually happened is disgraceful. Last year's budget raised taxes $736 billion, the largest tax increase ever, hitting 116 million people. If we follow this year's proposed budget, many of our constituents will have to dig into their pockets starting in 2011 and find an additional $2,000 to pay Uncle Sam on top of what they pay in taxes now. That ought to be a wake-up call. I travel around Wyoming most weekends. I can easily take a poll of my constituents. I am not running into anybody who thinks they are paying too little in taxes. If they think their taxes are going to go up, knowing that the Federal Government is receiving more in revenues than it ever has in the history of the United States, they are upset. So looking at a $736 billion tax increase will upset them. We are going to be discussing this as it gets closer and closer to April 15. That is the day they are particularly cognizant of what they are paying in taxes.

Last year's budget increased spending by $205 billion. Last year's budget grew our national debt by $2.5 trillion. Last year's budget ignored entitlement reform. There was no attempt to tackle the $66 trillion in unsustainable long-term entitlement obligations that face us. Well, not us; it is our children and grandchildren. But we will be the beneficiaries of that. That is not fair. Americans want to know what we can do to help them, not hurt them. Empty promises can no longer be made.

I want to highlight a recent editorial from the Wall Street Journal that talks about spending promises being made right now. I ask unanimous consent that the editorial be printed in the RECORD.

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

GOVERNMENT SHOWDOWN

(By Kimberley A. Strassel)

Hillary Clinton and Barack Obama were midway through a joint ode to big government in their last debate when a disbelieving Wolf Blitzer interrupted. Were they both really going into a general election proposing ''tax increases on millions of Americans,'' inviting the charge of tax-and-spend liberals?

''I'm not bashful about it,'' said Mr. Obama. ''Absolutely, absolutely,'' chimed in Mrs. Clinton.

In the middle of an election that is supposed to be about ''change,'' the country is instead being treated to the most old-fashioned of economic debates. The fun of it is that neither side is being shy about where it stands, which has only sharpened the old choice: higher taxes and bigger government, or more economic freedom and reform. With health care, entitlements and education all on the agenda, the stakes are huge.

We don't have a Democratic nominee yet, but in terms of this battle it matters little. Mrs. Clinton and Mr. Obama both dropped major economic addresses this week, and their most distinguishing feature was that they were nearly indistinguishable. Just ask Mrs. Clinton, whose campaign complained that Mr. Obama had copied her best ideas (even as it simultaneously complained he offered no ''solutions''—go figure).

Republican frontrunner John McCain certainly sees no differences, and his frontrunner status has allowed him to begin training his economic guns on the Clintbama approach. The battle lines are, as a result, already taking shape.

This is going to be an old-fashioned fight over taxes. Whatever they may have said on CNN, Mr. Obama and Mrs. Clinton aren't fool-hardy enough to embrace wholesale tax hikes. Like John Kerry and congressional Democrats before them, both are instead proposing raising taxes on only ''the rich.'' Both campaigns made an early bet that the Republicans'' broad tax-cutting message had gone stale, and that Americans were frustrated enough with rising healthcare and education costs that they'd embrace redistributionist tax policies.

Maybe. But the economic landscape has changed from last year and even frustrated Americans have grown jittery of tax-hike talk. Mr. Obama has already shifted, and started placing more emphasis on his promise to return some of his tax-hike booty to ''middle-class'' Americans via tax credits. Both Democrats are already justifying their hikes by pointing out that Mr. McCain voted against the Bush tax cuts in the past.

Mr. McCain's challenge—which he's already embraced—is to keep the tax focus on the future. His campaign is going to play off polls that show the majority of Americans are still convinced that political promises to soak the rich translate into higher taxes for all. He will use gobs of other proposed Democratic tax * * * Grand Canyon proportions. Democrats have presented themselves as the party of fiscal responsibility of late, a message that contrasted well with spendthrift Republicans in the 2006 elections. The Democratic presidential candidates will struggle to make that case, given both are inching toward the $900-billion-in-proposed-new-spending mark.

Mr. Obama's wish list for just one term? Some $260 billion over four years for health care. Another $60 billion for an energy plan. A further $340 billion for his tax plan. A $14 billion national service plan. A $72 billion education package. Also, $25 billion in foreign assistance funding, $2 billion for Iraqi refugees and $1.5 billion for paid-leave systems. (I surely forgot some.) Mr. Obama says he'll pay for these treasures by stopping the Iraq war and taxing the rich. But both Democrats have already spent the tax hikes several times over, and even a Ph.D, would struggle with this math.

Making a message of fiscal responsibility harder is Mr. McCain's reputation as a fiscal tightwad, and his role as one of the fiercest critics of his own party's spending blowout. Watch him also expand this debate to earmarks, as he's already done with an ad ripping into Mrs. Clinton for her $1 million request for a Woodstock museum. Mr. McCain's earmark requests last year? $0.

Mr. Obama's and Mrs. Clinton's economic speeches this week were noteworthy for sweeping government initiatives, straight out of FDR-land. Both propose a federally backed ''infrastructure bank'' that would finance projects with subsidies, loan guarantees and bonds. Both are vowing to ''create'' five million ''green-collar'' jobs in the environmental sector. These are in addition to giving government a huge new health-care role.

This is the area where Mr. McCain has the most work to do in drawing distinctions. He is already hitting both Democrats for their desire for ''bigger government.'' But the Arizonan's challenge will be explaining to voters why more government-run health care is bad for their pocketbook, why school choice will do more than more education dollars. Further, he's going to have to work through his own hit-and-miss instincts, which in the past have led him toward big government initiatives like a climate-change program.

This will be an old-fashioned debate about the role of business in America, whether it will be a federal cash cow and punching bag, or its tax rates lowered so it can compete with the rest of the globe. This will be an old-fashioned debate about trade, which will, with any luck, finally explore the vagaries of

the growing ''fair trade'' movement. This will be an old-fashioned debate about the minimum wage, and its ability to kill jobs.

None of this is to say this economic battle won't encompass ''change.'' If a Democrat wins the general election, things will certainly look different, starting with your tax bill. And if * * *

Mr. ENZI. The majority should be held responsible for its actions. We need to prepare a budget for our Nation that reduces national debt, promotes honest budgeting, and encourages true economic growth by reducing energy costs, reducing taxes, and reducing health care costs. I do believe that the first priority of any nation must be the health of its people. Every American should have access to high quality health care at affordable prices, and Congress must work with State governments and the private sector to achieve that goal. One way Congress can curtail this rapid rise in health care costs is to use health information technology as a cost-saving measure. I hope we can work across party lines to enact health IT legislation this year and to aid in addressing the fiscal challenges associated with spiraling costs and unacceptable levels of medical errors.

I wonder if the American people realize that when the baby boomers are fully retired and receiving benefits, the cost of supporting that generation through Medicare, Medicaid, Social Security will be so high we will have no money available for our Federal Government to do anything else. We will have no money for national defense, no money for education, no money for transportation infrastructure, not to mention a whole bunch of other things we are intricately expecting. That is unacceptable. Our country's future cannot sustain the cost.

This year, again, the President's budget proposes to reduce the rate of growth in one of our most expensive entitlements, which is Medicare. The President has sent a legislative proposal to Congress to meet the requirements laid out in the Medicare Modernization Act passed in 2003, thus providing more funding for the general fund that pays for other government programs such as defense, education, and infrastructure. What reception did it get from our friends in the majority? Unfortunately, we have heard that the proposal sent by the administration is dead on arrival and the administration has trumped up a phony crisis in Medicare. A phony crisis? There is nothing phony about it. We are standing at the edge of a tsunami as the huge baby boomer generation, my generation, reaches Medicare and Social Security eligibility.

The President's Medicare proposal is a good starting point; $34 trillion of unfunded liability is certainly not a phony crisis in Medicare. We must address this serious funding constraint head on.

Last year the majority also promised to abide by pay-go rules and actually pay for all the new spending to get America on the right track economically. As far as I can see, this has not happened. In fact, pay-go enforcement rules have been so weakened and thwarted through a variety of different mechanisms and smoke and mirrors that we ended up with billions and billions in new spending that is not offset. It is time to bite the bullet. We need to limit increases in discretionary spending by Federal Government agencies. This is necessary while we are also taking extreme care to keep our Nation safe and secure. I reiterate that we must take seriously the warnings we have heard from the General Accounting Office and the Congressional Budget Office about Federal expenditures spiraling out of control. We need to make the budget procedural and process changes to directly address this problem.

One of the many procedural reforms I believe would promote fiscal responsibility and safeguard the Nation's economic health is a 2-year budget process. In fact, in his budget for fiscal year 2009, the President once again proposed commonsense budget reforms to restrain spending. He has several recommendations, including earmark reforms and the adoption of a 2-year budget for all executive branch agencies in order to give Congress more time for program review. While we may negotiate on the details, we should implement these overall recommendations. The budget process takes up a considerable amount of time each year and is drenched in partisan politics while other important issues are put on the back burner. It should not be this way. The current Federal system, frankly, is broken. No, it is smashed. It is in shambles. We only have to look at the mammoth spending bills that nobody has time to fully read or understand before they are glibly passed into law and the hammer comes down on another nail in the coffin of good budgeting.

Last year's omnibus appropriations bill is Exhibit A in my prosecution of a system that promotes fiscal recklessness. It is a serious problem that must be fixed. The current budget and appropriations system lends itself to spending indulgences this country cannot afford. It should be scrapped for a system that is a proven winner.

To divert slightly and remind us of some of what happened last year as we were going through the process, we passed authorization bills around here which are supposed to set the grand parameters for what we are doing. One of those grand parameters involved the AIDS bill, passed unanimously through this body and through the other body and signed by the President. We set up a formula for AIDS help. That formula said the money will follow the patient. Good concept, good enough for everybody to agree it was the way to go. Then last year we had to vote on a $6 million proposal for San Francisco that stole money from 42 other cities in large amounts and smaller amounts from many other cities. We defeated that because we had set up a formula through authorization. But when the final omnibus bill came out, it had that same $6 million with the same theft put in it. We didn't have an opportunity then because $6 million out of $767 billion is not enough to worry about voting on, I guess. And we don't vote on it. But it still wound up in there.

We need to do something with our system of budgeting, and we need to do something about earmarks as well. There is a crucial need to enact procedural and process changes that will enable us to get this country on the right budgetary track. We simply cannot risk the economic stability of future generations by continuing to get by with the status quo. The risks are far too great.

Make no mistake: A change to a new budget process will not be easy. There are very strong feelings on both sides of this issue. But as responsible legislators, we need to come together to begin the difficult but necessary process of change. I, for one, intend to continue to work with my colleagues who are also committed to make the hard choices to safeguard our economic and fiscal future.

A nation that cannot pay its bills is a nation that is in trouble. If it is a repeat of last year, the fiscal year 2009 congressional budget resolution could mortgage the future of our children and grandchildren and require huge tax increases for all Americans. I welcome the opportunity to consider our Nation's spending priorities, keeping in mind we need to make tough choices and sacrifices in order to keep our country strong and healthy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I would like to talk about a provision in the Consumer Product Safety Commission Reform Act that deals with a database to make sure information about dangerous products is available to the public.

Here again, this has changed through the process. We have tried to build in safeguards. I want to talk about those. We have tried to find something that is balanced, that provides information, but also has some filtering so we make sure erroneous information is not disseminated. But the goal of this provision is that the public has the right to know when products are dangerous.

We have many examples—and I will go through some of these right now. But I promise you, for every one example I am going to give, there are probably 100 others I could talk about—we have many examples of dangerous products that are being sold and used while the company and the CPSC know of the risks of the product. But because of the inability for CPSC to get a mandatory recall or the inability of them to work out the terms with the manufacturer in many cases, the public does

not know about these dangerous products. So what happens is that the product continues to be sold and continues to be used when the Government and the manufacturer know it is a dangerous product.

Let me start with this one statement. This is from OMB Watch. It says: ''CPSC estimates the number of toy-related injuries''—just toy-related injuries—''jumped from about 130,000 in 1996 to about 220,000 in 2006—more than 600 injuries every day.''

Now, this is over a 10-year period: to go from 130,000 injuries—we are not talking about incidents; we are talking about injuries—130,000 in 1996 to 220,000 in 2006. We are not talking about isolated incidents where there might be the occasional toy or the occasional product that might cause a problem. We are talking about 600 injuries every day—600 injuries, not incidents—to children. This is just in toys. This statistic is just for toys. So, again, we are not talking about things that are in isolation that do not matter in the real world. This bill matters in the real world.

The next chart I wanted to show you is the recall process. This is a flow chart about recalls. My colleagues can see how complicated and how long and how many steps there are in the recall process. Listen, it is not that important about what each and every step is. But this is how it works. You can see, for a product to be recalled, there are a lot of hoops that have to be jumped through. Those hoops take time.

There again, as I mentioned just a moment ago, we know of many instances. I will give you one right here. There was a product called Stand & Seal, which was a product that, apparently, you spray on tile to seal the tile. That product was dangerous, was actually killing people, and definitely injuring people. The company knew about it, the CPSC knew about it, but the public did not know about it.

What happened was, in the one incident I am most familiar with—again, there are many others—in the one incident I am most familiar with, Home Depot continued to sell this product not knowing that it was a dangerous product, not knowing it was injuring people, not knowing it violated U.S. safety standards. They were selling it to the public.

Well, at the end of the process, guess what happens. Home Depot gets sued. They get sued for selling a product for which they had no knowledge of the problem. The CPSC knew, the Government agency knew about the problem, but the general public did not. The retailer did not know. So part of the reason we get into that situation is because of this long recall process.

Now, we are going to address a lot of this in the legislation. We are going to give the CPSC the ability to move through this process much quicker. We are going to give them the leverage they need to make decisions. Right now, the manufacturers, unfortunately, in many instances, have the leverage, not the CPSC. So we are going to try to address some of this.

But that is not even what I am talking about because I want to talk about the database. The database provision that is in the legislation, we believe, is a very important provision. It is very balanced. We have tried to find that right balance.

Let me, if I can, talk about one specific toy which has actually received a lot of attention nationally because of some of the egregious injuries and the serious problems. This is a toy made by Rose Art, which is a company that makes a lot of toys and crayons and art supplies and lots of other things—a lot of craft kinds of stuff. Rose Art makes a toy called Magnetix. This is the ''Xtreme Combo Flashing Lights Castle.'' Well, you can understand why this would have a lot of appeal to parents and children. Just look at the box. It looks like something that would be fun to play with.

If you can notice on this picture, there are these little silver dots, these little silver balls. Those are magnets. That is how you put this together. You can see right here in the picture, in someone's hand, that little dot. I hope it shows up on television for the folks watching around the country. That is one of those little dots.

The problem with these little magnets is they fall off. They can come loose. In 2007, over 1,500 incidents were reported before the 4 million units of Magnetix were recalled. So we have 1,500 examples of these either falling off or, in some cases, children swallowing pieces with the magnet still attached. The reported incidents included 28 injuries and 1 death.

I do not want to go into the details of this on the Senate floor, but the medical issues that children have to go through when they ingest one of these is not pretty. Again, I do not want to go through that on the Senate floor and turn this debate into a gory example. But, nonetheless, trust me when I say these toys, this Magnetix set—there are many varieties—has caused a lot of hardships for parents and children.

But what do kids like to do? They like to put things in their mouths. They eat things. They suck on things. We know how it is. But this is why we need a database so that people can know what is going on out there. We have 4 million units of this toy that were eventually recalled, but there were over 1,500 incidents reported before the recall. That is 1,500 incidents where parents and grandparents, et cetera—day care centers—had no way of knowing this was a dangerous product. So the database solves that problem.

Again, this is just a chart to run through the timetable. We do not have to spend a lot of time on the details. But in 2003, Rose Art introduced these building sets. They were very popular. By the way, they were on lists for a couple of holiday seasons about the best toy for kids, et cetera, et cetera, et cetera. The retailers loved them because they just flew off the shelves.

We could go through this long process, but you can see the first attempted recall was in March of 2006. That is almost 3 years later. They later had to do another recall, a more comprehensive, clearer recall. They did that in mid-2007. So these were on the shelves for a long time. But I am telling you right now, the parents have no way of knowing these are dangerous until the CPSC does their recall.

One of the things I want my colleagues to understand is that, again, this is not an isolated incident. We mentioned Magnetix. We are not trying to pick on Rose Art. We are just reporting the facts as they exist. But here is Magnetix shown on the chart. There were 1,500 incidents before it was recalled, before the public knew of the problem.

Again, we are not going to go through this, but you can see this next particular product had 679 incidents, this one had 400, this one 278, and on down the line.

My fellow Senators, we could print 10 or 20 or 30 of these charts and go down the numbers. You can see the different types of hazards we are talking about. I am telling you, the evidence is overwhelming that in the legislation we need to fix the CPSC.

So what is the best way for the public to know? Well, I would say the best way for the public to know is to inform the public, give the public some information, let them look at it. I must be candid right now to say we have had a few people—not all. I want to be fair. Not all, but a few people—a few companies in the business community, a few associations that have been opposed to this database idea. They think it will create a hardship. They think it will smear companies. They are concerned about the uncontrolled nature of that.

Well, we keep pointing them to the NHTSA Web site. What we are proposing is not novel. It is not new. It is tested. We have seen it in action for years, and that is the NHTSA Web site, the National Highway Transportation Safety Administration Web site. It looks like safercar.gov might be at least one of the ways to get there. But this is actually a copy of the NHTSA Web site.

When you go to safercar.gov or nhtsa.gov, I guess, you can come up with this page. You can see, it has ''Defects & Recalls.'' You can click on this and find out about the defects and recalls.

Let me walk the Senate through this, if I may, for just 1 minute. Here again, you click on something; you go to this page, you click on ''Search Complaints.'' Here again, we are talking about complaints from consumers and from third parties such as hospitals, day care centers, et cetera, who can put their information on a Web site. You put your information on the Web

site. If you are a parent or grandparent or day care center operator, and you are searching on a Web site, you would come to a place like this one or two or three screens later—and it is probably a little bit hard to tell on television, but right here it says ''To use the 'Drill Down' search method'':

What they do is walk you through these tabs—1, 2, 3, 4, 5 steps—and you put in information about the product that you are curious about. What happens is, you go through these steps. I did it yesterday in my office. I am going to tell you, you can look up a product in about 1 minute. It just takes that long. It is easy to use. It is very user friendly.

NHTSA has been doing this for years and years. This is the kind of thing, we would hope, when this legislation passes, that the CPSC would set up. It could be very useful for people all over this country. But you go through the tabs, and you set up what you want to set up. You search the items you want to search. You finally come to this page. This is the page that is the page that most Americans would love to see the Consumer Product Safety Commission offer. They would love to see this type of information.

This is a ''Complaints'' page. This information was filed by a consumer. In many cases, it is done online. It does not have to be, but in many cases it is done online. It is real easy, very inexpensive to do—not a lot of manhours for most of this. It has a ''Report Date,'' which in this case is March of 2008. That is when we ran this. It has the ''Search Type,'' and you see we typed in: ''child safety seat.'' We typed in the name: ''Fisher-Price.'' And for the ''Model,'' we just put the generic child safety seat model. This is all on little pop-up menus and little scroll-down-type menus. It is very easy to use. So we looked at Fisher Price. Crash: No. Fire: No. Number of injuries: One.

We come down here to this child seat: Tether, or strap.

Here is the summary, and this is pretty much what the consumer wrote, right here. It says: The consumer states that the harness strap of the child seat snapped from the back, causing the child to fall out of the seat, and there were some minor injuries.

You will see it has an ID number so they can track each record.

Here again—this is important. Part of the compromise we reached with Senator STEVENS and Senator COLLINS on this issue is that we don't provide information about the complainant. In other words, some in the business community—again, not all, but some—were concerned if we provided information about who is filling these out, then they get a letter from a trial lawyer and all of a sudden you have a lawsuit. We are putting the safeguard in to make sure that doesn't happen. The CPSC under our bill cannot provide that type of information.

Another thing we require of the CPSC is to remove any incorrect information that may be offered by the consumer, by the complaining person. We also allow manufacturers the opportunity to comment on information in the database. For example, they may offer a comment which said: Be sure you follow the instructions because if you don't get it buckled in right, you may have a problem, or whatever; I don't know what their comment may be. But these comments can actually be very useful to people who are searching this. So we built in these safeguards to make sure this NHTSA-type database will work with the CPSC. This is the goal we are trying to get to. We are trying to get to providing that information. While the CPSC is going through this long recall process or working through whatever they have to work through, at least the public has the right to know.

I know I have at least one colleague here who wishes to speak, so let me wrap up on this one final point.

There is a girl who was 14 months old. Her name is Abigail Hartung. She is from New Jersey. When Abigail was 14 months old, she was trapped by a crib. The crib collapsed and her hand was trapped in it. She was 14 months old. It turned out she didn't have a very serious injury, but certainly it was upsetting to the parents and to the child. When the father, Mr. Hartung, called the manufacturer to ask them about this and to tell them about it, the manufacturer told him on the phone: Well, this is amazing. We have never heard of this before. Are you sure you had it set up right? Are you sure the child wasn't somehow abusing the crib, Et cetera, et cetera, et cetera. Come to find out, the company told him they had never heard of this happening before. Come to find out, the company had already received 80 complaints about this happening—80.

This database will build in the accountability for some of these companies that are going to do that. Some of these companies—again, not all; I don't want to paint with a broad brush here, because many of these companies are very responsive. They take these consumer complaints very seriously. They are trying to do the right thing; others, not so much. So for those who are not going to respect the safety and the welfare of their customers, this database will help level the playing field. It will provide information to families and consumers of all sorts to know that there is another place they can go and check and find out if this product has a problem, so companies won't treat others as the Hartungs were treated.

Mr. President, I see I have a wonderful colleague who wants to say a few words, so I will yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE BUDGET

Mr. SANDERS. Let me begin by thanking my friend the Senator from Arkansas and my friend the Senator from Maine for their fine work on this very important issue in trying to protect the needs of our kids. I thank them very much.

What I wish to talk about for a short period of time is the budget situation. I am a member of the Budget Committee. The Budget Committee, I believe, will be marking up the budget in committee tomorrow. I believe it will be on the floor sometime next week. This entire process of determining a budget is enormously important, because it reflects the priorities of the American people and it reflects our values. It is no different than any family budget. It has everything to do with where we choose to spend our resources and how we raise our resources. So it is an issue of enormous importance.

As a member of the Budget Committee, I am going to be looking at this budget within a context of four major concerns. No. 1, as I go around my State of Vermont and, in fact, America and talk to a whole lot of people, I think the American people understand, even as Congress and the White House may not, that the middle class in this country today is in the midst of a collapse, and I use that word advisedly. Despite a huge increase in worker productivity, great strides forward in technology, there are tens of millions of American workers today who are working longer hours for lower wages. Poverty in America is increasing. I think of most concern is that moms and dads all over this country are worried that for the first time in the modern history of our country, their kids are going to have a lower standard of living than they do. That is the first sense of reality I look at as we prepare the budget.

The second reality I look at is that while the middle class is shrinking and poverty is increasing, the people on top have not had it so good since the 1920s. I understand we are not supposed to talk about those things. Not too many people talk about the fact that we have the most unequal distribution of wealth and income of any major country on Earth. The rich are getting much richer, while everybody else virtually is seeing the decline in their standard of living. It is not something we are supposed to talk about. I talk about it. I think it should be talked about. I think it is an issue that must be addressed as we look at the budget, because we are going to have to ask a question about how we raise more revenue in order to address many of the unmet needs in our country.

The third issue is just that. The reality is that there are enormous unmet needs in this country. When people say Government shouldn't be involved, I don't know to whom they are talking. Our infrastructure is collapsing. The civil engineers tell us that we have over $1 trillion in unmet needs in terms

of our roads, our bridges, our tunnels, our wastewater systems. We need to fund those. It isn't going to get any better if we don't improve them, and we will create jobs as we do that.

But it is not only our physical infrastructure. We have the highest rate of childhood poverty of any major Nation on Earth. This is a national disgrace. Eighteen percent of our kids are in poverty. We have other seriously unmet needs. So looking at the budget, we have to look at not only the general collapse of the middle class, the fact that the rich are getting richer and everybody else is getting poorer; we have to understand with regard to our children, our infrastructure, there are huge unmet needs.

The fourth issue we have to deal with is that in the midst of all that, our national debt is soaring. It is now over $9 trillion.

So I look at those four areas as issues that must be dealt with as we move into this new budget.

Since President Bush has been in office, median household income for working-age Americans has declined by almost $2,500. That is part of the collapse of the middle class. The reality is we have lost some 3 million good-paying manufacturing jobs in Pennsylvania, in Ohio, and in the State of Vermont. We are losing good-paying jobs, in my view, because of a disastrous trade policy which simply encourages corporate America to throw American workers out on the street, move to China, and then bring their products back into this country. So we are losing good-paying jobs.

Since President Bush has been in office, over 8.5 million Americans have lost their health insurance. We are now up to 47 million Americans without any health insurance. Meanwhile, health care premiums have increased by 78 percent.

Under George W. Bush's watch, for the first time since the Great Depression, the personal savings rate has fallen below zero. This simply means that because of dire economic conditions, we are actually as a people spending more money than we are earning. There are millions of people right now who, when they go to the grocery store, don't buy their Wheaties and don't buy their rice and don't buy their milk with cash. They buy it with a credit card. By the way, they are often charged 25, 28 percent for that credit card. We are looking at a foreclosure crisis which is certainly the highest on record, turning the American dream of home ownership into an American nightmare for millions of our people.

So that is No. 1: The middle class is collapsing. There is tremendous economic pressure. People go to the gas station to fill up their gas tank and pay $3.20 for a gallon of gas, while ExxonMobil makes $40 million last year.

People can't afford home heating oil. The price of food is going up. Everywhere you turn there is enormous pressure on working families and on the middle class. That is a reality we must address as we look at this budget.

But as I mentioned earlier, not everybody is in that boat. Let's be honest about it. The wealthiest people in this country have not had it so good since the 1920s. According to the latest figures from the IRS, the top 1 percent—1 percent—earned significantly more income in 2005 than the bottom 50 percent. That means the 300,000 Americans on the top earn more income than do the bottom 150 million Americans. It is the most unequal distribution of income and of wealth in our country of any major country on Earth. That is a reality that must be addressed as we look at the budget.

According to Forbes Magazine, the collective net worth of the wealthiest 400 Americans—400—increased by $290 billion last year, to $1.54 trillion. Incredibly, the top 1 percent now owns more wealth than the bottom 90 percent. That is an issue we have to deal with.

In terms of our national debt, our national debt is now at $9.2 trillion. I think the history books will be pretty clear in that among many other negative characteristics, President Bush will go down in history as being the most financially and fiscally irresponsible President in the history of this country. The national debt is soaring, and clearly, one of the reasons for that is we spend $12 billion every single month on the war in Iraq which, according to some people, is going to go on forever, I guess—$12 billion a month. And who is paying for it? Our kids and our grandchildren are paying for it, because it is easier to pass the cost of that war on to them than tell the American people today there is a cost of war, and you have to make some choices. Twelve billion dollars a month.

There are people here in the Senate, and the President of the United States, who think we should repeal the estate tax. One trillion dollars worth of benefits go to the wealthiest three-tenths of 1 percent. And how do they propose to make up the difference? They don't. Just pass it on to the kids and our grandchildren and let the millionaires and billionaires of this country have a huge tax break. No problem at all, just: That is what we will do.

I wish to talk about something else that also is not talked about very much, and that is the terrible situation of unmet social needs that exists in this country, and the President's budget. At a time when we have a major health care crisis, the President wants to make major cuts in Medicare and Medicaid. As a member of the Budget Committee, I am going to do everything I can to make sure we do not make the health care crisis in this country even worse. We have, as any mother or father knows—it is true in Vermont and it is true virtually all over this country—a horrendous crisis in terms of affordable childcare. The President has said in his budget that he wants to reduce the number of children receiving childcare assistance by 200,000. We have a major crisis, and the President's response is let's make it even worse.

Embarrassingly, in this great country, many of our citizens are going hungry.

I know in Vermont, our emergency food shelters are running out of food. This is true all over the country. We need to address that issue. The President's response is to deny food stamps to 300,000 families and children, and so forth and so on. It is a crisis among low-income working people. The President's response is to cut those programs so we can give tax breaks to the wealthiest people in this country.

It seems to me that at a time when our country has so many serious problems, at a time when the American people know in their souls that we are moving in the wrong direction in so many areas, with fundamental problems in this country, we have to have the courage to have a serious debate about moving this country in a new direction.

There was an article in the papers recently—last week—and it brought forth a fact that many of us had known, but it is important to repeat: In the United States of America, we have the largest number of people behind bars of any country on Earth. People say, well, China is much larger than America and is an authoritarian, Communist country, so surely they have more people—I am not talking per capita, I am talking collectively, in total—behind bars than we do. Wrong.

Is there a correlation between the fact that we have more people in jail than any other country and the fact that we have the highest rate of childhood poverty of any major country on Earth? I think there is a direct correlation. I think you either pay now or you pay later. Either you give kids the opportunity for decent childcare, nutrition, and education, and keep an eye on them so that in fourth grade they don't mentally drop out, and in the tenth grade they don't really drop out of school and get involved in destructive activity—you either do it—and it costs money—or you ignore that reality.

When these kids go to jail and commit crimes, we spend $50,000 a year keeping them behind bars. That is our choice. If people want to ignore the crisis and the reality we have, which is the highest rate of childhood poverty, that we are underfunding Head Start, and so on, you can ignore it, but you are going to pay the price at the other end by locking up many people in jail.

I also want to mention to my colleagues that I will be bringing amendments to the floor during the budget process. They are simple. What they say is that at a time when the wealthiest people in this country have never had it so good, when the President has given these same people huge tax breaks, the time is now that we rescind

the tax breaks that go to millionaires and billionaires and use some of that money to reduce our national debt, and use others of those sums to start protecting the middle-class working families and the kids in this country.

A budget is about priorities, about choices. I intend to provide some choices to the Members of the Senate. I hope they will support me and those amendments in moving this country in a fundamentally different direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up my amendment, No. 4097.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object, to make sure, we will go back on the pending amendment as soon as he completes his presentation.

Mr. VITTER. Yes. Mr. President, I wish to modify my unanimous consent request to include that.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. VITTER) proposes an amendment numbered 4097.

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

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

The amendment is as follows:

(Purpose: To allow the prevailing party in certain civil actions related to consumer product safety rules to recover attorney fees)

On page 58, strike lines 4 through 7 and inserting the following:

''(g) ATTORNEY FEES.—The prevailing party in a civil action under subsection (a) may recover reasonable costs and attorney fees.''.

Mr. VITTER. Mr. President, the amendment is simple and straightforward. It establishes a ''loser pays'' rule for actions by attorneys general under the law. It doesn't make it mandatory, it makes it discretionary, or up to the court. But the court would be allowed to award costs and attorney's fees from the losing party to be paid by the losing party to the winning party. I think that is fair and reasonable. That essentially is the present law. It is also essentially the sort of provision that is in the House bill.

In the Senate bill, the availability of fees and costs and attorney's fees is only available to the winner, if the winner is the attorney general. If the attorney general loses in those suits, if the private party prevails, the private party cannot get those costs and attorney's fees. I think that is unfair. Perhaps more important than it being unfair, I think it creates an imbalance that might encourage clogging the system, clogging the courts—perhaps most important, clogging the workload of the Consumer Product Safety Commission with unnecessary lawsuits that are not fully thought through. I think this reasonable provision—loser pays, whoever the loser is, up to the discretion of the courts, not mandatory, simply allowable, if the court decides—is the fair and balanced approach.

In offering this, let me make clear that we need to do more to increase product safety. This bill does many good things in that regard. The House bill does many good things in that regard. I support that move. But as we do that, I don't want to create an imbalance or actually clog up the system, whether it is the court system or the CPSC workload, clog it up with unnecessary, perhaps frivolous, suits and litigation, and prevent us from getting to that goal.

We should make sure we don't overburden the Consumer Product Safety Commission. One of the problems we have now that this bill and the House bill attempts to address is that of overburdening an inadequate staff and resources. So we need to make sure that as we fix those problems with one hand, we don't use the other hand to make them worse by creating incentives to increase the workload unnecessarily with lawsuits that are not thought through and that are frivolous.

Again, I look forward to supporting and promoting greater consumer safety. I supported the amendment on the floor recently that embodied the House bill, because I think the House bill does that in a substantial way, without having some of the shortcomings—including this one—of the Senate bill. We do need to do more. One thing we don't need to do is create more lawsuits than actually accomplish the objective of safety or to encourage lawsuits that are not thought through, to encourage actions that can be frivolous. This is a reasonable, balanced way to prevent that.

In closing, let me be clear that this doesn't mandate ''loser pays'' in every case. This says to the court that you can award costs and attorney's fees from the loser to the winner in whatever direction that works, no matter who the winners and losers are, but it is not mandatory. That is broadly consistent with present law and broadly consistent with the House bill, which I believe is a fairer, more balanced approach, which will avoid clogging up the system yet again, even as we try to give the system more resources.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that Senators CHUCK SCHUMER and BARACK OBAMA be added as cosponsors to amendment No. 4105 to the Consumer Product Safety Commission Reform Act. This is the amendment Senator MENENDEZ and I have introduced to ban industry-sponsored travel by those who regulate them.

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

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to speak as in morning business.

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

MENTAL HEALTH PARITY

Ms. KLOBUCHAR. Mr. President, I rise to commend the House for bringing today before the House a step that will bring our Nation closer to achieving long overdue fairness for people suffering from mental illness and chemical dependency.

We are now one step closer as the House considers this important mental health parity bill today, one step closer to realizing the dream of my friend, the late Senator Paul Wellstone, who championed equality for those with mental health needs, until his untimely death in 2002.

If this law passes, as it should, we can thank the persistence of leaders such as Representatives JIM RAMSTAD and PATRICK KENNEDY; we can thank Senators PETE DOMENICI and TED KENNEDY; and we can thank the Wellstone sons, particularly David, who continues to carry the torch lit by his father.

While Federal law may not alleviate the stigma that surrounds mental illness, it can bring us closer to ending insurance discrimination and easing the unfair financial burden borne by patients and their families.

Most health care plans currently have barriers to mental health and chemical dependency treatment. Individuals seeking treatment for these health problems face higher copayments and higher deductibles, as well as arbitrary limits on the number of office visits or inpatient days covered. These people pay the same premiums as everybody else, but when they get sick, their insurance doesn't cover them.

The House and Senate proposals build upon the Mental Health Parity Act of 1996 by mandating that if an insurer offers mental health and chemical dependency coverage, the treatment limitations can be no more restrictive than for medical benefits.

Minnesota is proud to have one of the strongest mental health parity laws in the country. But this law only goes so far. Federal action will expand mental health parity protections to those covered by self-insured plans—117 million people—and move us toward real equity for those needing vital services.

It is appropriate that this legislation in the House is named in honor of Paul Wellstone—an inspiring figure whose ceaseless motion and tireless pursuit of a better world was brought to a stop only by that tragic plane crash.

Many in this body, including myself, counted Paul as a friend. We all know Paul was a crusader and a man with many passions. But anybody who ever met or talked with him quickly found out that he had a special place in his heart for helping those with mental illness. This deep and abiding concern was shaped by the suffering of his own

brother. Paul's brother Steven suffered from mental illness. As a young child, Paul watched his brother's traumatic dissent into mental illness. As a freshman in college, he suffered a severe mental breakdown and spent the next 2 years in mental hospitals. Eventually, he recovered and graduated from college with honors. But it took his immigrant parents years to pay off the hospital bills.

Writing about this, Paul recalled the years that his brother was hospitalized. For 2 years, he said, the house always seemed dark, even when the lights were on. It was such a sad home. Decades later, Paul knew there were far too many sad homes in our great Nation—too many families devastated by the physical and financial consequences of mental illness.

Paul knew that we can and should do better. For years, he fought to allocate funding for better care, better services, and better representation for the mentally ill, and for years he fought for mental health parity and insurance coverage. For Paul, this was always a matter of civil rights, of justice, and of basic human decency. Of course, on this issue, as with every other issue, Paul and Sheila, his wife, worked together.

We should all care about securing mental health and chemical dependency treatment equity for the same reasons that Paul did. We should care because of the suffering and stigma that individuals and families endure due to mental illness and addiction. We should care because it is cruel when people with mental health or addiction problems receive lesser care than those with physical health problems. We should care because of the enormous financial cost of these diseases for our society and because the economic research shows how cost effective good treatment can be.

I saw this firsthand as a county prosecutor. I cannot tell you the number of violent crime cases I remember where the right treatment could have prevented a horrible crime, and the later costs of imprisonment, or maybe the right medication would have stopped someone from spiraling downward to a point where they committed a crime. This is not to excuse the crime, and it doesn't mean that we didn't prosecute them aggressively and that they didn't go to prison; it just means if we can prevent the crimes with appropriate treatment and medication, then we must do it.

Untreated mental illness and substance abuse adds an enormous burden to the criminal justice system every day. That is why we created a mental health court in Hennepin County, where I prosecuted, which has had many successes, as well as a drug court. But it would be better to prevent people from getting into the system in the first place. That is why this legislation is so important.

Finally, we should care because we know that people who are suffering need help. Mr. President, 54 million Americans suffer from mental illness or substance abuse. Almost 15 million suffer from depression. Over 2 million suffer from schizophrenic disorders. Over 20 million Americans need treatment for alcohol or drug abuse. These numbers are staggering, but ultimately what convinces anyone of the importance of this issue is when we see how real people close to us suffer, whether it is a son or a daughter, a mother or father, or, as in Paul's case, a brother or a sister, a neighbor or a coworker.

PATRICK KENNEDY and JIM RAMSTAD have been brave enough to talk about their own struggles, and that really adds some moral compass to their leadership in the House. I have seen it in my own family with my dad, who suffers from alcoholism, a larger-than-life dad who could climb the highest mountains, whom also I have seen plunge to the lowest valleys with his battle of alcoholism. My dad finally got the treatment he needed, and I have never seen him so happy as in the past 10 years. Other families need to be, as my dad puts it, ''pursued by grace.'' This legislation offers crucial support for people in need.

Several months ago, our Senate unanimously voted in support of mental health parity. The House is now passing its own legislation. I will say that the House bill is stronger, and I prefer the House bill over the Senate version, but I trust these two bills will be reconciled and signed into law, and I hope my Senate colleagues involved in the conference committee will get us and bring us back the strongest bill possible. This will be a victory for millions of Americans living with mental illness who face unfair discrimination in their access to affordable health care treatment.

Again, I thank my colleagues, Senator KENNEDY and Senator DOMENICI, for their leadership on this issue. I thank PATRICK KENNEDY and JIM RAMSTAD for their continued leadership. But in the end, I am here today with respect to Paul Wellstone, who led this fight for so many years. I know he is looking down on us today and looking down at the House of Representatives that is passing this bill with his name in his honor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4094

Mr. LEAHY. Mr. President, I realize we earlier thought we might vote at 12:30 p.m. That has been put off to a little later. I wish to talk about the pending amendment to the Consumer Product Safety Commission Reform Act. I am very worried about it. It would tie the hands of State attorneys general who seek to protect their citizens from harmful products.

I see the distinguished chairman on the floor. He was an attorney general. He knows what is involved in these areas. I applaud his efforts for including in the legislation the power for State attorneys general to enforce consumer product safety violations. As a former prosecutor and as one who watches how carefully anything such as this is done in my home State of Vermont, I certainly do not want us to gut that important enforcement provision by immunizing corporate bad actors for the reasonable costs and fees it takes State attorneys general to bring these actions. States are not rolling in money, but they expect their attorneys general to protect them. If wrongdoers have to pay part of that cost, so be it.

If we strike line 5, 6, and 7 of the pending bill, we immunize corporate bad actors. I don't think any of us should have to go home and tell our legislatures: Boy, we just gutted the ability of our State attorney general to do something, and if he does do something, we want to hit you with a higher bill than you would have paid otherwise.

I understand Senator CORNYN's floor statement in support of his amendment mentioned nothing about reasonable fees and costs incurred by the offices of State attorneys general. Rather, he focused on contingency fee agreements that some attorneys general have decided to make with private lawyers to enforce laws.

Setting aside the contingency fee argument for a moment, I wish to highlight that his amendment would do more than just micromanage the types of staffing decisions State attorneys general enter into. I am always somewhat nonplused to hear Members say how we have to get the Federal Government off our backs and let our States make the determination, that Washington doesn't know best, that our State capitals, legislatures, and Governors have a better idea how to do things, and then all of a sudden bring in amendments that would just run roughshod over our 50 States, would relegate our State Governors and legislators to the dustbin.

We should not strike the lines of this bipartisan legislation that make corporations found liable for violating consumer laws responsible for reasonable costs and fees incurred by States. We do this in private litigation all the time. If you have somebody who has violated the law, they ought to pay the costs and not ask the taxpayers to pay the costs for the violators.

The purpose of Senator CORNYN's amendment is to tie the hands of State attorneys general by prohibiting them from entering into certain types of contracts with private lawyers. I have been here long enough to remember a time when principles of federalism and deferring to State governments meant something in this great Chamber. State elected officials are accountable to their citizens. If the State voters do not like the way a State attorney general is staffing cases, that is easy—just don't reelect him or her. But Senator CORNYN's amendment would make the staffing decision for all State attorneys general, whether it is in Vermont or

New Hampshire or Arkansas or Texas or anywhere else. What he is asking us to do, the 100 Members of this body, is to stand up and say we have greater wisdom than all the legislatures in this country and we are going to tell individual States how they should conduct their business. I believe that is unwise, especially in the context of unsafe products that have the potential to harm consumers. So I oppose this amendment. It undermines the important enforcement role of State attorneys general, and it runs roughshod—it runs roughshod—over any State where their legislature, their Governor, their attorney general wants to protect the people of their State from unsafe consumer products.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PRYOR. Mr. President, it looks as if we have a couple Senators who are preparing to speak. I wish to follow up on the comments, very briefly, that the distinguished chairman of the Senate Judiciary Committee made about the attorneys general.

This idea of allowing State attorneys general to assist Federal agencies with enforcement of Federal decisions is not new in this bill. This has been around for a long time. I have nine examples I want to mention very quickly.

In the Fair Credit Reporting Act, the Telephone Disclosure and Dispute Resolution Act, the Children's Online Privacy Protect Act, the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Credit Repair Organizations Act, the Controlling the Assault of Nonsolicited Pornography and Marketing Act, and one section of the Truth in Lending Act all provide for State attorneys general to have a role in enforcement.

My last point—and this is the ninth one I want to mention—a few years ago, the FTC's telemarketing sales rule went into effect. They said at one point:

> The commission believes that the joint Federal-State enforcement model under the Telemarketing Act provides a practical framework for coordinating our efforts with those of States and results in an efficient and effective law enforcement program.

We are utilizing a model that other Federal agencies that had this model before recognize is an effective and efficient use of resources.

My last point on adding the attorneys general to the enforcement of the CPSC rules, regulations, and decisions is that it is a very efficient way to do it. If we wanted to, the Congress could add another $5 million, $10 million, $20 million, $50 million—whatever it may be—in appropriations to this Federal agency to put people out there around the various States to do the very same work the State attorneys general offices can do without any Federal taxpayers' dollars involved.

I thank the distinguished chairman of the Senate Judiciary Committee for his comments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4109

Mr. CASEY. Mr. President, I ask unanimous consent that the pending amendment be set aside so I can call up amendment No. 4109.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. CASEY], for himself, Mr. BROWN, and Ms. LANDRIEU, proposes an amendment numbered 4109.

Mr. CASEY. Mr. President, I ask unanimous consent that the reading be dispensed with.

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

The amendment is as follows:

(Purpose: To require the Consumer Product Safety Commission to study the use of formaldehyde in the manufacturing of textiles and apparel articles and to prescribe consumer product safety standards with respect to such articles)

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

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

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

(b) CONSUMER PRODUCT SAFETY STANDARD.—Not later than 3 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall prescribe a consumer product safety standard under section 7(a) of the Consumer Product Safety Act (15 U.S.C. 2056(a)) with respect to textile and apparel articles, and components of such articles, in which formaldehyde was used in the manufacture thereof.

(c) RULE TO ESTABLISH TESTING PROGRAM.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall prescribe under section 14(b) of such Act (15 U.S.C. 2063(b)) a reasonable testing program for textile and apparel articles, and components of such articles, in which formaldehyde was used in the manufacture thereof.

(2) INDEPENDENT THIRD PARTY.—In prescribing the testing program under paragraph (1), the Consumer Product Safety Commission shall require, as a condition of receiving certification under subsection (a) of section 14 of such Act (15 U.S.C. 2063), that such articles or components are tested by an independent third party qualified to perform such testing program in accordance with the rules promulgated under subsection (d) of such section, as added by section 10(c) of this Act.

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

(1) protects consumers from risks of illness or injury caused by the use of hazardous substances in the manufacture of textile and apparel articles, or components of such articles; and

(2) provides a greater degree of such protection than that provided under this section.

''(e) SENSE OF THE CONGRESS.—Congress finds that:

''(1) Formaldehyde has been a known health risk since the 1960s;

''(2) As international trade in textiles has grown an number of countries have recently recalled a number of textile products for excessive levels of formaldehyde;

''(3) The Federal Emergency Management Agency and the Centers for Diseases Control released formaldehyde testing results from trailers in Louisiana and Mississippi on February 14, 2008:

''(A) Results of these tests showed levels of toxic formaldehyde that were on average five times as high as normal;

''(B) Formaldehyde in textiles is a known contributor to increased indoor air concentrations of formaldehyde; and

''(C) The Centers for Disease Control has recommended residents of the 2005 hurricanes living in Federal Emergency Management Agency trailers immediately move out due to health concerns.''

The PRESIDING OFFICER. The Senator is recognized.

Mr. CASEY. Mr. President, I wish to first of all commend the work of several colleagues on this Consumer Product Safety Commission legislation, and in particular the Senator from Arkansas, Senator PRYOR, for long overdue changes of the law that pertain to how we protect consumers, families, across America from unsafe products from around the world that come into Pennsylvania and come into America and can do harm to our families. So I am grateful for the work that went into this legislation.

Today, I wish to raise with this amendment a particular concern I have, and I think it is shared by a lot of people in this body, and that is the threat posed by formaldehyde. I am going to put up a definition so people have a sense of what we are talking about. Formaldehyde is a colorless, strong-smelling gas, and when present in the air at levels above 0.1 parts per million, it can cause watery eyes, burning sensations in the eyes, nose, and throat, nausea, coughing, and all the things you see here, but it has also been shown to cause cancer in scientific studies using laboratory animals and may cause cancer in humans.

So we are talking about something that is a threat to families across this country, and it is something that this legislation should deal with.

Our amendment is very simple. And I should note for the record this amendment is being offered not only by me but by Senator BROWN of Ohio and Senator LANDRIEU of Louisiana. It is very simple what we do. We set forth in this amendment to have the Consumer Product Safety Commission, first of all, study the use of formaldehyde in the manufacturing of textile and apparel articles. That study would be conducted within 2 years, and basically we would want that study to identify risks to consumers caused by the use of formaldehyde in the manufacturing of articles that may be clothing articles or components of such articles.

So, first of all, the study. Secondly, not later than 3 years after the date of the enactment of the amendment, the Consumer Product Safety Commission should set forth a safety standard, which is something this Commission can do and should do with regard to formaldehyde.

Thirdly, we say that the Consumer Product Safety Commission shall prescribe a testing program, a reasonable testing program for textile and apparel articles and components of such articles. Basically, what we are talking about is to test for the presence of formaldehyde and the threat it poses.

Now, what are we talking about? Some of the news articles over the last couple of years point to very basic articles in the life of any family in this country—blankets. There was a problem not too long ago with the presence of formaldehyde in blankets. We have seen examples where toys and other products that impact children, but especially when it comes to clothing in this case, there have been examples of baby clothing where there is a threat posed by the presence of formaldehyde.

Some might say: Well, why would the Consumer Product Safety Commission have to have a regulation such as this and to have a program to deal with this? Well, for some reason, it has been left off the list. Because in terms of the Government agencies already that have regulated the use of or exposure to formaldehyde, the list is long. The Occupational Safety and Health Administration, OSHA, has it; the Environmental Protection Agency, EPA, has it; the Food and Drug Administration; the Housing and Urban Development agency has it. So these are agencies already in the Federal Government that have regulated the use of and exposure to formaldehyde, and what we are asking in this amendment is that yet another critical agency in our Government, the Consumer Product Safety Commission, be charged with the responsibility of studying, setting forth rules and regulations, and also making sure we are doing everything possible to prevent this from becoming an even larger threat to American families.

I would conclude with one chart: the Consumer Product Safety Commission regulations of formaldehyde. And after that, the entire chart is blank because that is exactly what the Consumer Product Safety Commission is doing right now on formaldehyde—nothing, not a single thing, not a single rule that deals with this, despite the threat posed to young children, to babies when they wear baby clothing, or the threat it poses to all Americans when it comes to what we wear.

This is long overdue, and I hope colleagues on both sides of the aisle would not only support, as I think they will, strongly, the elements of this Consumer Product Safety Commission legislation but in particular that they would support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4122

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4122.

Mr. DORGAN. Mr. President, I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

(Purpose: To strike the provision allowing the Commission to certify a proprietary laboratory for third party testing)

On page 25, beginning with line 21, strike through line 13 on page 29 and insert the following:

''(3) THIRD PARTY LABORATORY.—

''(A) IN GENERAL.—The term 'third party laboratory' means a testing entity that—

''(i) is designated by the Commission, or by an independent standard-setting organization to which the Commission qualifies as capable of making such a designation, as a testing laboratory that is competent to test products for compliance with applicable safety standards under this Act and other Acts enforced by the Commission; and

''(ii) is a non-governmental entity that is not owned, managed, or controlled by the manufacturer or private labeler.

''(B) TESTING AND CERTIFICATION OF ART MATERIALS AND PRODUCTS.—A certifying organization (as defined in appendix A to section 1500.14(b)(8) of title 16, Code of Federal Regulations) meets the requirements of subparagraph (A)(ii) with respect to the certification of art material and art products required under this section or by regulations issued under the Federal Hazardous Substances Act.

''(C) PROVISIONAL CERTIFICATION.—

''(i) IN GENERAL.—Upon application made to the Commission less than 1 year after the date of enactment of the CPSC Reform Act, the Commission may provide provisional certification of a laboratory described in subparagraph (A) of this paragraph upon a showing that the laboratory—

''(I) is certified under laboratory testing certification procedures established by an independent standard-setting organization; or

''(II) provides consumer safety protection that is equal to or greater than that which would be provided by use of an independent third party laboratory.

''(ii) DEADLINE.—The Commission shall grant or deny any such application within 45 days after receiving the completed application.

''(iii) EXPIRATION.—Any such certification shall expire 90 days after the date on which the Commission publishes final rules under subsections (a)(2) and (d).

''(iv) ANTI-GAP PROVISION.—Within 45 days after receiving a complete application for certification under the final rule prescribed under subsections (a)(2) and (d) of this section from a laboratory provisionally certified under this subparagraph, the Commission shall grant or deny the application if the application is received by the Commission no later than 45 days after the date on which the Commission publishes such final rule.

''(D) DECERTIFICATION.—The Commission, or an independent standard-setting organization to which the Commission has delegated such authority, may decertify a third party laboratory if it finds, after notice and investigation, that a manufacturer or private labeler has exerted undue influence on the laboratory.''.

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4098

Mr. DORGAN. Mr. President, I send another amendment to the desk and ask for its consideration; amendment No. 4098.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4098.

Mr. DORGAN. Mr. President, I ask unanimous consent the amendment be considered read.

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

The amendment is as follows:

(Purpose: To ban the importation of toys made by companies that have a persistent pattern of violating consumer product safety standards)

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

SEC. 40. BAN ON IMPORTATION OF TOYS MADE BY CERTAIN MANUFACTURERS.

Section 17 (15 U.S.C. 2066) is amended—

(1) in subsection (a), as amended by section 10(f) of this Act—

(A) in paragraph (5), by striking ''; or'' and inserting a semicolon;

(B) in paragraph (6), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(7) is a toy classified under heading 9503, 9504, or 9505 of the Harmonized Tariff Schedule of the United States that is manufactured by a company that the Commission has determined—

''(A) has shown a persistent pattern of manufacturing such toys with defects that constitute substantial product hazards (as defined in section 15(a)(2)); or

''(B) has manufactured such toys that present a risk of injury to the public of such a magnitude that the Commission has determined that a permanent ban on all imports of such toys manufactured by such company is equitably justified.''; and

(2) by adding at the end the following:

''(i) Whenever the Commission makes a determination described in subsection (a)(7) with respect to a manufacturer, the Commission shall submit to the Secretary of Homeland Security information that appropriately identifies the manufacturer.

''(j) Not later than March 31 of each year, the Commission shall submit to Congress an annual report identifying, for the 12-month period preceding the report—

''(1) toys classified under heading 9503, 9504, or 9505 of the Harmonized Tariff Schedule of the United States that—

''(A) were offered for importation into the customs territory of the United States; and

''(B) the Commission found to be in violation of a consumer product safety standard; and

''(2) the manufacturers, by name and country, that were the subject of a determination described in subsection (a)(7)(A) and (B).''.

Mr. DORGAN. Mr. President, this issue of imported products from abroad in an increasingly globalized world is a very significant and serious issue. I am not one who suggests we can retreat from the global economy. Clearly, the global economy exists. I would say the rules for the global economy have not nearly kept pace with the galloping movement of this global economy and, as a result of it, we have some very serious trade issues, we have imbalances in trade, we have the largest trade deficit in human history, we have the loss of American jobs being shipped overseas, and then we have, in addition to all that, we have products that are now made overseas, shipped into this country, that we have discovered are dangerous products.

My colleague from Arkansas, Senator PRYOR, under his leadership, and with others, have brought a bill to the floor of the Senate. I am on the Senate Commerce Committee, and I was pleased to work with them and play a very small role in helping create this legislation, but I wish to commend my colleague and others for bringing a bill to the floor that gives the Consumer Product Safety Commission some additional authority.

Now, the Consumer Product Safety Commission is headed by somebody who didn't want the authority; didn't seem to think it was necessary, unfortunately. We need someone at the Consumer Product Safety Commission who is very interested, very alert, and very engaged on these issues. Because the fact is, these can be life-or-death issues. That is a plain fact.

Now, the amendment I have offered, the second amendment, is relatively simple. I wish to describe it. It is an amendment that says the Consumer Product Safety Commission should have the authority to permanently ban imports from certain producers, foreign producers, that have shown a persistent pattern of shipping unsafe products to our shores. Let me repeat. This simply gives the Consumer Product Safety Commission the authority to ban imported toys from unsafe producers.

Under this amendment, the Consumer Product Safety Commission would have the full discretion to decide whether a particular case warrants such a ban. I think it would shock most Americans to learn that there is no such authority that exists at the moment. We can have a company that sends us once, twice, 4 times, 5 times, 10 times or 20 times unsafe products into this country, and there is no authority for anyone to ban that company from shipping products into the U.S. marketplace. That is wrong.

So let's say that a company, in this case let me say China—and I don't mean to pick on the Chinese, but the fact is 85 percent of the toys that come into this country are coming in from China—let's say a manufacturer has a complete and persistent record of painting their toys with lead paint. How often should we allow that company to be caught sending toys into this country with lead paint; lead paint that has a significant capacity to provide injury to children? How long should we allow that to happen? Under current law, the answer is, there is no limit.

Hopefully, we will find the toys and prevent them from being on the store shelves. But at the present time, there is no limit, and no one has the capability to ban the producers from sending those products into this country.

There are Chinese companies producing for U.S. brands that have had many repeated problems. In September, Mattel, Incorporated, announced the third massive recall in a 5-week period. At that point, Mattel found 848,000 Chinese-made Barbie and Fisher-Price toys that had excessive amounts of lead paint. Toys were pulled from the store shelves at that point, and that included Barbie kitchens, furniture items, Fisher-Price train toys, and Bongo Band drums, among others. The surface paints on these toys contained excessive levels of lead, which is prohibited under Federal law because, frankly, it is unsafe for children.

Now, in addition to those recalls, Mattel has recalled nearly 9 million Chinese-made toys coated with toxic lead paint and other safety problems. The plastic preschool toys sold under the Fisher-Price brand in the United States include the popular Big Bird, Elmo, Dora, and the Diego characters.

In June of last year, RC2 Corporation recalled 1.5 million wooden railroad toys and set parts from its Thomas & Friends. Most parents of young children will recognize Thomas & Friends, the wooden railway product line, which was made by Hansheng Wood Products factory using lead paint. So 1.5 million of these toys were headed to the store shelves in this country.

Now, the question: Why would a producer anywhere use lead paint? Well, because lead paint is bright, it is durable, it is flexible, it is fast drying, and most of all, it is cheap. China mass produces lead paint and coloring agents such as lead chromate because they are generally cheaper than organic pigments.

But lead is dangerous even in small quantities. We have known that for a long while in this country. Going back to 1978, the U.S. Consumer Product Safety Commission made it illegal to use any paint containing more than 0.06 percent of lead for residential structures, hospitals, and children's products.

We have known about lead for so long that Ben Franklin wrote about the dangers of lead. Ben Franklin wrote a letter about the bad effects of lead taken inwardly. Some 19th century paint companies advertised their paint in newspaper ads bragging it was lead free. So this isn't some new discovery, that lead is a problem and a potential human health problem. And it is no accident that some of these toys are containing excessive levels of lead paint. Because, as I said, lead is cheap, the contractors that are making these products are trying to lower costs, and they are not spending a lot of time wondering about human health issues.

Now, let me describe this silver chain. This is a Chinese-made charm.

This charm is an example of a heartbreaking case. This happened in March 2006 when a 4-year-old Minnesota boy died of lead poisoning after swallowing this small, heart-shaped charm that came as a gift with a purchase of Reebok tennis shoes. A little 4-year-old boy swallowed this, and this was 99 percent lead. The fact is, these kinds of circumstances can kill. Unsafe toys can kill.

Jarnell died because a trinket, made of 99 percent lead, was included with a shoe, and that trinket was swallowed by a young child, and he is dead.

Ann Brown, who headed the Consumer Product Safety Commission from 1994 to 2001—and by the way, I might say, she was an extraordinary public servant, did a wonderful job. She said there should be an outright ban on any lead in any toy product. She said: If I were at the CPSC now, the Consumer Product Safety Commission, I would say that trying to recall tainted products is like picking sand out of the beach: it is just not possible. I agree with that.

The only way to make certain our products on our store shelves are safe, and especially toy products that are going to be used by our children, is to give the officials who are supposed to be monitoring this and regulating this the authority to permanently ban unsafe producers. Short of that, we are going to continue to see these problems. Then we are going to scratch our heads and wonder: Why do these still exist? The reason they still exist is the same companies are shipping us tainted products and unsafe products. This is not rocket science. We have seen the products, we have read about the products, we have heard about the products. They include, yes, a trinket with a tennis shoe; they include a small wooden toy painted with lead paint; they include toothpaste; they include cat food, contaminated shrimp, car tires—you name it.

The question is, Who is going to stand up for and support the interest of American consumers? I think it has been the case that when these problems came to light and people lost their lives because of them, many of the producers, particularly some in China, said: None of this is true. These are problems that are exaggerated, and our products are safe.

Then, in June, when there was a tremendous outcry here in the United States, regulators in China finally said they had closed 180 food plants and that inspectors had uncovered more than 23,000 food safety violations. China Daily, the nation's English-language newspaper, said industrial chemicals, including dyes, mineral oils, paraffin wax, and formaldehyde, had been found in everything from candy to pickles to biscuits to seafood. China announced on July 9 of last year that it had actually executed the former head of its food and drug safety agency for accepting bribes in excess of $800,000 in exchange for approving substandard medicines.

Well, we know the problem. That is why we have a bill on the floor of the Senate. We know at least a part of this solution. The bill on the floor of the Senate is a good bill. But I have an amendment that would improve it, so that when you have a company that has a persistent and consistent and relentless problem of shipping unsafe products to this country, we can say: Stop, you cannot do it anymore.

I read a while back about a guy in my home State who was picked up 13 or 14 times for drunk driving. Our State said: Stop. You cannot drive any more. It is over. We are not putting up with this.

We ought to do the same thing with companies—not only in China but elsewhere—that send unsafe or tainted products that are unsafe for American consumers and especially children. We ought to do the same thing to companies that do that over and over again. If they are not willing to abide by the regulatory processes and by the standards we set and adopt in this country, then they are not welcome any longer to ship products to our store shelves. So I offer an amendment that would allow us at least the authority—not the requirement, the authority—to outright ban products from companies that have a record of persistent problems in sending unsafe or tainted products to our store shelves.

Again, I wanted to say that as all of this has played out, this is all part of the global economy these days. You know, you produce somewhere and ship it somewhere else, and someone consumes it. I have spoken extensively about this, this issue of the global economy that has galloped forward, but the rules have not kept pace. This is one more area where the rules have not kept pace, and this underlying piece of legislation is an attempt to establish better rules.

Now, the fact is, we cannot force this to work unless we have people in agencies who are hired and paid by the Federal Government who want to do their job. The fact is, we have had abysmal leadership at one of the agencies that ought to have been involved in stopping this. It is unbelievable to me that someone collects a paycheck and has a sense of self-worth if they are not interested in standing up for what their agency should stand up for, but that has been the case.

So we bring a piece of legislation to the floor that is a good piece of legislation, that establishes new rules, rules that will provide for safety for American consumers. But we need better management and better leadership as well at some of these agencies who have decided they are going to stand up for consumers too.

AMENDMENT NO. 4122

I wish to mention the second amendment I have offered, which is one about which I will not speak at great length. I wish to visit with the manager of the bill at some point. That is an amendment which would strike the provision that allows the Commission to certify a proprietary laboratory for third-party testing. I would like to see independent testing. Let me hasten to say I accept the good intentions, the good will of those who wish to test themselves, but in my judgment, when you have proprietary testing, it is a step or several steps away from independent testing. I wanted to talk to the manager of the bill about this amendment to see if we can find a way to at least make sure all testing that is done represents truly independent testing.

STRATEGIC PETROLEUM RESERVE

Mr. President, I wish to finish my comments with another point.

Yesterday, I came to the floor, and I was going to offer an amendment, but there was an objection because my amendment is admittedly not germane. I will not attempt to offer it today. I understand others are not offering the nongermane amendments, so I will certainly not offer mine, except to say I intend to offer it every chance I get. I will find a crevice someplace on an authorization bill or I will do it on the Energy and Water appropriations bill that I write because writing the chairman's mark gives me an opportunity to simply write it in.

It deals with this question of today, on Wednesday, we are sticking 60,000 to 70,000 barrels of oil underground in one of our domes to save it for the future, at a point when the price of gasoline is at $3, $3.50, going to $4 a gallon and oil is rocketing up around $103 a barrel and the Strategic Petroleum Reserve, where we store oil underground for a rainy day, is 97 percent full. We have the administration taking oil from the Gulf of Mexico as royalty-in-kind from oil wells, and instead of putting it into the supply and converting it to money for the Federal Government, they are sticking it underground and saving it for a rainy day. This is, by the way, a subset of oil called sweet light crude. What that does is put upward pressure on oil and gas prices at exactly the wrong time.

This is not rocket science either. Why would you pick the highest price of oil and say: By the way, the Federal Government has decided, in addition to all of the other issues out there with respect to energy policy, we have decided to see if we cannot put some upward pressure on gas prices, and they have. Government witnesses testified before the Energy Committee yesterday and admitted that this puts upward pressure on gas prices. So why on Earth would we stick 60,000 or 70,000 barrels of oil a day underground? That is unbelievable to me. It is going to double. There are going to be 125,000 barrels a day in the second half of this year, sticking it in the Strategic Petroleum Reserve.

I now have a piece of legislation that would say: You cannot do that. There has to be a 1-year pause unless the price of oil goes back below $75. But if it does not, there has to be a 1-year pause, that the oil has to go into the supply, not underground.

The Federal Government ought not be making things worse for consumers, you know. There are a lot of interests here that are causing American drivers to be burned at the stake, but the Federal Government is carrying the wood when it is putting oil underground. That makes no sense at all. We have OPEC, all of these other issues. We have unbelievable speculation in the market, with hedge funds and investment banks knee-deep in a carnival of speculation.

We had a witness testify that the oil futures market has become like a 24/7 casino—never closes. The result of all of this speculation by people who are trading in oil—and they will never have the oil and never get oil, yet they are trading futures contracts and driving up the price every time as all of that speculation goes on. I think that deserves and needs an investigation.

Our Federal Government has decided on a policy of taking oil out of the supply and sticking it underground. There is only one word for that; that is, ''nuts.'' We have to stop it.

I was not able to offer this amendment on this bill yesterday, but I will be back with this amendment. In my judgment, we will have a vote on it in the Senate because we have the votes to pass it and say to this administration: Stop it. Put an end to it. Put that oil in the supply and put downward pressure on gas prices and downward pressure on oil prices.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KOHL. Mr. President, I have an amendment I would like to offer at some point. I will not do so at this time, but I would like to make some general comments on the subject.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KOHL. Mr. President, the bipartisan amendment I am talking about addresses the troubling use of court secrecy. Far too often, our courts permit vital information that is discovered in litigation, which bears directly on public health and safety, to be covered up. Our amendment is a narrowly targeted measure that will make sure court-endorsed secrecy does not prevent the public from learning about health and safety dangers.

This amendment is a good amendment because it is a complement to this bill, and we know private lawsuits are often a critical source of information about dangerous products. Court secrecy often hinders regulatory agencies in their efforts to protect the public.

Under the amendment, judges would have to consider public health and safety before granting a protective order for sealing court records and settlement agreements. Judges have the discretion to grant or deny secrecy based on a balancing test that weighs the public's interest and public health and safety hazards and legitimate interests in secrecy such as trade secrets. The amendment does not place an undue burden on our courts. It simply states that in a limited number of cases, judges would have to take a closer look at requests for secrecy.

We know there are appropriate uses for these orders and we are confident that our judges will protect information that truly deserves it.

We are all familiar with well-known cases where protective orders and secret settlements prevented the public from learning about the dangers of silicone breast implants, IUDs, prescription drugs, exploding gas tanks, dangerous playground equipment, collapsing baby cribs, and defective heart valves and tires. Had information about these harmful products not been sealed, injuries could have been prevented and lives could have been saved.

At a December hearing, we learned that while some judges may be more aware of the issue, this problem continues, and we have examples to prove it. Johnny Bradley told us the chilling details of a car accident caused by tire tread separation that killed his wife and left him and his son severely injured. During his lawsuit against Cooper Tire, he learned that information about similar accidents had been kept secret for years through court orders and secret settlements. Today, details about this tire defect remain protected by court orders while Cooper Tire continues to aggressively fight attempts to make them public.

We also heard from Judge Joe Anderson, a Federal district court judge in South Carolina. He supports the bill as a balanced approach to address ''a discernable and troubling trend'' for litigants to ask for secrecy in cases where public health and safety might be adversely affected. He told us about a local rule in South Carolina, one that goes even further than our amendment, and how it has been a great success. The number of trials has not increased and cases continue to settle even though secrecy is no longer an option in that court.

I have heard concerns about national security and personally identifiable information so I have included language to ensure that this information is protected. I have also heard concerns about protecting trade secrets. I would like to make it very clear that our amendment protects trade secrets. We are confident that judges, as they are already required to do, will give ample consideration to them as part of the balancing test. However, we will not permit trade secrets that pose a threat to public health and safety—such as defective tire design—to justify secrecy.

Some people argue that there is no evidence that protective orders or sealed settlements present a significant problem. Just ask the thousands of people who took the prescription drug Zyprexa without knowing the harmful side effects that were concealed by a secret settlement. Or ask the parents whose children were injured or killed by dangerous playground equipment, collapsing baby cribs, ATVs, and over-the-counter medicines.

If information about these products had not been sealed, we may have known about the dangers and lives could have been saved. So I hope my colleagues will support the efforts we are trying to bring to bear to pass this long overdue legislation.

Thank you so much, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4096

Mrs. MCCASKILL. Mr. President, I want to talk a little bit about an amendment that has been offered by Senator DEMINT to remove a very important provision of this bill—a very important provision because it deals with whistleblowers.

Now, why do we need to protect whistleblowers? Well, let's be honest about this. I think Senator PRYOR has done a masterful job of laying out the reality of the Consumer Product Safety Commission and, frankly, the tawdry way it has met its responsibilities over the last 7 years. We obviously need to do many of the things that are included in this legislation, and I thank Senator PRYOR for his work on this legislation, along with Senator INOUYE, Senator STEVENS, and Senator COLLINS, because this is important.

We are talking about the lives and health and safety of people who think we are on the job. They think their Government is, in fact, looking out for their safety and protection in terms of consumer products, and the safety of those products.

So why do we need whistleblower provisions? Because frankly that is our best line of defense. It is, in fact, the people who work at this important agency who have been most offended at some of the practices of this administration in terms of undermining and gutting the work that has been done by the brave, talented, and competent people who work there. So I do not know why we would be reluctant to give them whistleblower protection.

This is not a new concept. Whistleblower protection is not a new concept. This Congress has enacted and this President has signed many whistleblower protection laws into being over the last several years. Let's review them. These are the same commonsense protections that were already passed by the Senate and signed into law as part of the 9/11 Implementation Act and Defense Authorization Act.

Since 2000, Congress has passed the following same kind of commonsense whistleblower protections: We have done AIR–21 in 2000 for airline industry workers. We have done Sarbanes-Oxley in 2002 for employees of publicly traded companies. We have done the Pipeline Safety Act in 2002 for oil pipeline employees. We have done the Energy Policy Act in 2005 for nuclear workers. We have done, as I said, the Implementing Recommendations of the 9/11 Commission Act in 2007 for railroad and public transportation workers. And, of course, we have done the Defense Authorization Act in 2008 for Department of Defense contractors.

Now, why would we want to protect the contractors' employees at the Defense Department and not protect the employees in the Consumer Product Safety Commission? That does not even make sense. Of course, we want to protect them.

Let me give you some examples of what some of the employees have said publicly about some of the pressures they face and about the atmosphere in which they work. Then you realize the kind of protection they need.

One CPSC safety employee said his boss, his superior:

> . . . hijacked the presentation. . . . He distorted the numbers in order to benefit industry and defeat the petition. It was almost like he still worked for them, not us.

And by ''them,'' he meant the industry that was supposed to be regulated and supposed to be made accountable.

Another CPSC safety employee said:

> Buyer beware—that is all I have to say.

Another one:

> So much damage has been done.

Another one:

> It's a complete disaster.

All of these employees were talking about what they know and what they see in terms of this agency's failings to do the bare minimum, the basic necessities of protecting consumers.

In March 2005, CPSC called together the Nation's top safety experts to confront an alarming statistic: 44,000 children riding ATV vehicles were injured the previous year, nearly 150 of them killed. Subsequent to an alarming presentation by CPSC employees of the dangers and risks, the agency's director of compliance then presented a public view that was unsubstantiated by the research that had been done.

The head of the poison prevention unit resigned when the efforts to require inexpensive child-resistant caps on hair care products that had burned toddlers were delayed, and delayed so industry costs could be weighed against the potential benefit to unsuspecting children.

These whistleblower protections will not shield bad employees. It does not protect disgruntled employees who make false claims, and it does not prevent an employer from firing a whistleblower for unrelated reasons, such as poor performance.

Let's get to the meat of the matter. The President does not like the whistleblower protections. I wish I were surprised. The claim is that the administration thinks this provision of the bill extends new whistleblower protections in ways that are unnecessary. This administration being hostile to a provision protecting whistleblowers is a little bit like the Sun coming up. It has gone out of its way to lobby against every whistleblower law that has been enacted.

This is a very secretive administration, and they are simply hostile to the concept of whistleblowing because it sheds light—it sheds light—and public scrutiny on abusive conduct that betrays the public trust.

Another claim made by the administration: These provisions are likely to result in serious problems for the CPSC in carrying out its mission and will cause a serious increase in the number of frivolous claims brought against employers.

Yes, the specter of frivolous claims. We always need to be worried about the specter of frivolous claims and frivolous lawsuits. It is not real, this worry from the administration. This provision is designed to help the dramatically understaffed CPSC enforce the law. It is a necessary enforcement cornerstone for this vital reform to be realized most effectively.

With only 400 employees, we cannot expect this agency to find every single consumer hazard or product that makes its way to consumers. We need to empower the employees to help. We need to protect them if they want to bring the public's attention to the work they have done.

There have been numerous concerns expressed about the increased burden to be placed on employers because of litigation. Frankly, these shrill predictions have been made every single time—every time we have considered one of the 35 other corporate whistleblower laws that Congress has passed.

The CPSC whistleblower language retains preexisting effective structural checks against litigation abuses. And this is important; let me underline this. There is not one case—not one case—since 1974 where the CPSC has had to use the structural checks against litigation abuses. In other words, this is a complete paper tiger.

Let's do what is right here. We should be celebrating whistleblowers, we should be thanking whistleblowers, and, by all means, we should be protecting whistleblowers.

I urge the Senate to reject the DeMint amendment that would gut one of the important ways we have in this bill to actually protect the innocent consumer from, in fact, having a toy with lead paint or another dangerous product that could do real and irreversible harm to members of their family.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

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

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

Ms. KLOBUCHAR. Mr. President, I wish to address one point related to the amendment that the Presiding Officer and I have, amendment No. 4105, which is coming up for a vote shortly.

I received an e-mail communication from the Consumer Product Safety Commission which pledged Chairman Nord's support for our amendment. I am pleased she is supporting our amendment which basically bans industry from financing travel when it involves industries the Consumer Product Safety Commission regulates.

They also clarified in the amendment that there were, in fact, I think 29 instead of 30 trips that were taken in the last 7 years but also that Chairman Nord herself took only 3 of these trips and that the rest of the trips were her predecessor who went on trips to places such as China. I would point out that one of the trips she took, which they call mundane in this e-mail, was to New York that was financed by the toy industry itself. As my colleagues know, we are now dealing with these toxic toys. Another one she took which wasn't mentioned in her e-mail, but I am getting out of the Washington Post article, was $2,000 in travel from the Defense Research Institute to attend its meetings in New Orleans on product litigation trends. Her predecessor had attended the same group's meeting in Barcelona.

My point is to clarify the record. We are pleased to have Chairman Nord's support for our amendment. But I would note the issue that doesn't seem to be grappled with in this e-mail is the consumers who have to deal with this—the families with whom Senator PRYOR and I met, including the mother of the little boy who swallowed the Aqua Dot that morphed into the date rape drug—they were not able to finance the travel. They were not able to spend 2 days with the head of the Consumer Product Safety Commission to make their case.

That is why I believe it is very important, as we look at the ethical accountability issues related to the Consumer Product Safety Commission, that this amendment pass.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 4103

Mr. CARDIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4103.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN] proposes an amendment numbered 4103.

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

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

The amendment is as follows:

(Purpose: To require the Consumer Product Safety Commission to develop training standards for product safety inspectors)

On page 5, between lines 21 and 22, insert the following:

(c) TRAINING STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall—

(A) develop standards for training product safety inspectors and technical staff employed by the Commission; and

(B) submit to Congress a report on such standards.

(2) CONSULTATIONS.—The Commission shall develop the training standards required under paragraph (1) in consultation with a broad range of organizations with expertise in consumer product safety issues.

Mr. CARDIN. Mr. President, this amendment would require that new hires of the Consumer Product Safety Commission be adequately trained by making sure a study is done on adequate training.

First, I wish to take some time, if I might, for one moment to thank my colleagues for bringing the Consumer Product Safety Commission Reform Act to the floor of the Senate. It is long overdue. There are many important provisions in this act, including dealing with an issue that has been very dear to me, coming from Baltimore, which has been a city actively involved in trying to deal with lead poisoning. I am pleased this legislation will ban lead in our children's toys and set up independent testing to make sure we have an effective way to deal with lead in toys, particularly those that are imported.

There are many other important provisions of this act. The amendment I called up is an amendment to make sure that as the new hires come to the Commission, these individuals are adequately trained so we can make sure they are doing their work appropriately. I believe we will have support on both sides of the aisle, and I hope that amendment can be cleared.

I also anticipate offering two additional amendments which have not yet been cleared for introduction, and I hope I have a chance to do that on behalf of Senator OBAMA. One amendment would include the right to know for products that are recalled, so the public would know the exact information they need so the recall notices are effective. It would include the manufacturer. It would include where the product came into our market. It would include a lot more information, consumer information, as to how they can get relief. I hope I have a chance to offer that amendment at a later point.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to a vote immediately in relation to Klobuchar amendment No. 4105, as modified, with 2 minutes of debate prior to the vote, equally divided; further, that no second-degree amendments be in order prior to the vote; that following the vote in relation to the Klobuchar amendment, there be 1 hour of debate on Cornyn amendment No. 4094, as modified, with the time equally divided between Senators CORNYN and PRYOR, or their designees; further, that a vote in relation to the Cornyn amendment occur at a time to be determined by the two leaders; that no second-degree amendments be in order prior to the vote, and there be an additional 10 minutes of debate prior to the vote in relation to the Cornyn amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 4105

We now have 2 minutes of debate on the Klobuchar amendment. Who yields time?

Ms. KLOBUCHAR. Mr. President, I will divide my time with Senator MENENDEZ. We feel strongly about this amendment. This is an amendment that basically says the Chairman of the Consumer Product Safety Commission and other employees cannot finance their travel from the industry they are regulating. This was a major scandal this fall, right in the middle of the time that we found out that 29 million toys had been recalled, that employees of the CPSC were taking travel paid for by the industry they are supposed to regulate. It is not consistent with what SEC and other agencies do. We believe this amendment is very important. We heard from the chairman of the Commission that she doesn't oppose this amendment. Thank you.

I yield the floor.

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

Mr. MENENDEZ. Mr. President, I join my colleague from Minnesota in advocating that all Members of the Senate support the amendment. The Senate overwhelmingly voted to do the same as it related to this institution, this body, in terms of not taking travel from lobbyists. The CPSC should have no less a standard. Consumers should feel safe that, ultimately, those products are going on the market not because of the influence of some trips a Commissioner took.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the Klobuchar amendment.

Ms. KLOBUCHAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—96

Akaka	Crapo	Lautenberg
Alexander	DeMint	Leahy
Allard	Dodd	Levin
Barrasso	Dole	Lieberman
Baucus	Domenici	Lincoln
Bayh	Dorgan	Lugar
Bennett	Durbin	Martinez
Biden	Ensign	McCaskill
Bingaman	Enzi	McConnell
Bond	Feingold	Menendez
Boxer	Feinstein	Mikulski
Brown	Graham	Murkowski
Brownback	Grassley	Murray
Bunning	Gregg	Nelson (FL)
Burr	Hagel	Nelson (NE)
Cantwell	Harkin	Pryor
Cardin	Hatch	Reed
Carper	Hutchison	Reid
Casey	Inhofe	Roberts
Chambliss	Inouye	Rockefeller
Coburn	Isakson	Salazar
Cochran	Johnson	Sanders
Coleman	Kennedy	Schumer
Collins	Kerry	Sessions
Conrad	Klobuchar	Shelby
Corker	Kohl	Smith
Cornyn	Kyl	Snowe
Craig	Landrieu	Specter
Stabenow	Thune	Webb
Stevens	Vitter	Whitehouse
Sununu	Voinovich	Wicker
Tester	Warner	Wyden

NOT VOTING—4

Byrd	McCain
Clinton	Obama

The amendment (No. 4105), as modified, was agreed to.

Ms. KLOBUCHAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4094

The PRESIDING OFFICER. There is now 60 minutes equally divided on the Cornyn amendment. Who yields time?

AMENDMENT NO. 4124

Mr. DEMINT. Mr. President, I have an agreement with the chairman and the next speaker to bring up an amendment and then yield the floor. I ask unanimous consent to set aside the pending amendment and send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4124.

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

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

The amendment is as follows:

(Purpose: To strike section 31, relating to garage door opener standards)

Beginning on page 85, strike line 22 and all that follows through page 86, line 8.

Mr. DEMINT. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 4094

Mr. CORNYN. Mr. President, the managers of this legislation, Senator PRYOR and Senator STEVENS, have introduced what I think is, by and large, a very good bill designed to protect consumers. As a matter of fact, I support the expansion of enforcement authority not only to include the Department of Justice, Federal law enforcement authorities, but also to deputize State attorneys general to seek injunctions for violations of the act. That comes from my experience as serving as the attorney general of my State for 4 years.

I think the State attorneys general can provide additional resources in their capacity as the chief consumer protection officer of their State to make sure that consumers are protected. Although in talking to my colleagues, the question was raised, well, if there is only an injunction sought, then why do we need a prohibition against contingency fees that might be paid to outside lawyers to whom this job would be outsourced? And the answer to that is, lawyers can get pretty creative sometimes and figure out a

way to pay an outside lawyer a contingency fee even when all the relief that is granted is an injunction.

I want to be clear about what this amendment is and what this amendment is not. This amendment has no bearing whatsoever on the right of an individual if they can't afford any other way to hire a lawyer than based on a contingency fee arrangement. Historically, since the days of England, or Anglo-American jurisprudence, we have recognized the contingency fee as the poor person's key to the courthouse; being able to sign a piece of their recovery, whether it is a settlement or a judgment of a court, as a way to get into court, to sort of level the playing field.

But this is not a case of a person who cannot afford to hire a lawyer unless they hire them using a contingency fee. We are talking about the Federal Government. We are talking about the State governments. And I think there are important reasons to make sure the people who represent the sovereign State of Texas and the other 49 States or the U.S. Government are accountable to the public and are not only in it as bounty hunters seeking to maximize their recovery without any sort of political accountability. That lack of political accountability happens when lawyers for the Government outsource their responsibilities, or at least the job of suing, to private lawyers but without any political accountability associated with it.

I would point out there are tragic examples of what I am talking about. It is not a hypothetical. Before I was elected as attorney general of my State in 1998, my predecessor hired outside lawyers to pursue tobacco companies in the much ballyhooed tobacco litigation. The justification for that was supposed to be that the money was going to be used to stop underage smoking and to try to make sure the public was well educated about the dangers of tobacco. Well, I am sorry to say, as a result of that litigation, the private lawyers hired by the then-attorney general of Texas received more than $3 billion—billion dollars—in attorney's fees that I believe should have gone to the State of Texas to help in those targeted sorts of programs.

There is no accountability. There is no reason the State or the Federal Government should have to outsource its responsibilities to private lawyers. And my amendment is designed to make sure that does not happen under the context of consumer protection.

We found out, though, what is being circulated by an organization that used to be called the American Trial Lawyers Association, now called the American Association for Justice—interesting selection of names—that is opposed to my amendment. It makes clear the concerns I had that ultimately this bill, which would provide only for the attorneys general to seek injunctions, is perhaps to be used as a vehicle to expand that to allow private lawyers, acting under the authority of the State attorneys general, to seek money judgments against any business they are big enough and bad enough to sue.

As you can see, in the fourth paragraph of this document, it says:

> Proponents of the Cornyn amendment are desperate to prevent an even playing field for consumers. Prohibiting the use of contingency fees will result—as the proponents of the amendment know it will result—in State attorneys general being wholly unable to utilize private attorneys in those very cases where litigation expenses and complexity make the assistance of private attorneys essential.

It is ironic, that it is the very outside lawyers—the trial lawyers—who hope to be hired by the State attorneys general to pursue that litigation who are opposing this amendment, even though they know that under the consumer product safety laws that are currently on the books it provides for the computation of a reasonable attorney's fee in the recovery and pursuit of a claim. As a matter of fact, it provides an attorney's fee based on actual time expended by the attorney in providing the advice and other legal services in connection with representing a person in an action brought under this law, such reasonable expenses as may be incurred by the attorney in the provision of such services, which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

So it is, unfortunately, clear this provision, in this otherwise good piece of legislation, is being used as a Trojan horse not just to protect consumers but to benefit outside lawyers and to have a lack of political accountability that is, I believe, required to make sure the lawyers who represent the United States of America in the Department of Justice or the State attorneys general conduct themselves in an appropriate and accountable sort of fashion.

I mentioned this before, and I will mention it again, that there are examples where this very arrangement has resulted in corrupt bargains. My predecessor's attorney general has just recently left a Federal penitentiary, having served time in prison because he used this outside fee arrangement basically to funnel money to a friend. So this is a very real and present problem.

It is clear the provisions that have been negotiated between the distinguished Senator from Arkansas and the distinguished Senator from Alaska, which would limit it to just seeking injunctions, that perhaps there is a design or plan or the possibility that this will be expanded in conference to include authorizing private lawyers to then sue small businesses and large businesses across the country and authorize the delegation or outsourcing of those responsibilities that the Department of Justice or these attorneys general have to outside counsel, with no accountability, and the very real prospect that there will be abuse and, in some cases perhaps, even corruption.

So I hope my colleagues will learn from the experience of the past, the sad experience of the past, where these sorts of arrangements have been entered into in a way that has resulted in not only not accomplishing the goals sought by the legislation but also outright corruption.

AMENDMENT NO. 4094, AS MODIFIED

Mr. President, I ask unanimous consent that my amendment be modified, with the changes at the desk, and I reserve the remainder of my time.

The PRESIDING OFFICER. The amendment is modified under the order.

The amendment, as modified, is as follows:

> On page 58, strike lines 4 through 7 and insert the following:
>
> ''(g) If the attorney general of a State obtains a permanent injunction in any civil action under this section, that State can recover reasonable costs and a reasonable attorney's fees from the manufacturer, distributor, or retailer, in accordance with section 11(f).
>
> ''(h)(1) An attorney general of a State may not enter into a contingency fee agreement for legal or expert witness services relating to a civil action under this section.
>
> ''(2) For purposes of this subsection, the term 'contingency fee agreement' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.''.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time run equally.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. Reserving the right to object, I did not hear the request.

Mr. PRYOR. I suggested the absence of a quorum and that the time run equally on both sides.

Mr. CORNYN. Mr. President, if I may, I will object only for the purpose of asking unanimous consent that the document that was depicted in the chart be made a part of the record following my remarks.

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

OPPOSE THE CORNYN CONTINGENCY FEES AMENDMENT—DON'T LET OPPONENTS OF STRONGER CONSUMER PROTECTIONS CHANGE THE SUBJECT AND WEAKEN ENFORCEMENT

(By the American Association for Justice (formerly ATLA))

Despite what the bill's opponents wish the Senate to believe, the CPSC Reform Act is not about plaintiffs' attorneys and it is not about allowing state officials to reward their friends or pursue a political agenda. Those are entirely spurious attacks by the bill's opponents, deliberately designed to change the subject and undermine the Senate's will to enact the bill's tough, new standards for manufacturers.

Congress has no business (and no constitutional authority!) telling state governments they may not enter into contracts that are perfectly legal under state law. Prohibiting

state attorney generals from entering into lawful contracts with private attorneys is designed for one purpose only: to discourage the use of the very enforcement tools that the CPSC Reform Bill sets out to enact.

Opponents of the bill know that occasionally state governments will lack the necessary financial resources or the requisite expertise to themselves handle complicated civil actions. In such cases, Congress has no constitutional authority whatsoever to deny these governments their right to enter into lawful contracts under state law.

Proponents of the Cornyn Amendment are desperate to prevent an even playing field for consumers. Prohibiting the use of contingency fees will result—as the proponents of the amendment know it will result!—in state attorneys general being wholly unable to utilize private attorneys in those very cases where litigation expenses and complexity make the assistance of private attorneys essential. It is ironic that the defendant corporations backing the Cornyn Amendment themselves employ dozens of outside counsel to protect their own interests in every state. State governments need the same flexibility to bring in additional resources, just as private corporations do.

Without the availability of the contingency fee system that has historically allowed state governments to utilize private attorneys, many successful consumer and environmental protection actions brought by state attorneys general would not have been possible. In the past, these actions have led to much faster removal of unsafe products from the marketplace and have protected children from extended exposure to lead paint and protected consumers from unsafe chemicals like arsenic in food and water and formaldehyde in homes.

The PRESIDING OFFICER. Without objection, the request of the Senator from Arkansas is agreed to, and the clerk will call the roll on the absence of a quorum request.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

AMENDMENT NOS. 4094 AND 4097

Mr. WHITEHOUSE. Madam President, I rise to oppose amendments offered to the Consumer Product Safety Commission bill by Senators CORNYN and VITTER. Before speaking about these amendments, I first commend Senator PRYOR for his important work on this bill. I know he has been working on this a long time and we are, as former State attorneys general, particularly pleased to see language in this bill granting State attorneys general the authority to obtain injunctive relief against entities that violate consumer protection laws. I know Senator PRYOR and other former attorneys general in this body understand that this authority is an efficient and effective way to enforce consumer protection laws. Unfortunately, the amendments offered by Senators CORNYN and VITTER would needlessly undercut these important protections.

The Cornyn amendment adds the following language to the bill. It says:

An Attorney General of a State may not enter into a contingency fee arrangement for legal or expert witness services related to a civil action under this section.

I oppose inclusion of this language in the bill. As an attorney general, I was involved in Rhode Island in a very significant piece of litigation which is now successful. We have won the jury case. It was filed on behalf of tens of thousands of Rhode Island children who either had been poisoned by lead in paint or were going to be poisoned by lead in paint if nothing was done. Without the ability to bring in a significant law firm to support my office's efforts, we would have been simply blown out of the litigation by the blizzard of dilatory tactics, by the paper blizzard that defense attorneys can specialize in. I can recall being forced to chase down a witness list of 100 witnesses to take depositions, not one of whom was called as an actual witness. I believe it was an effort to create a wild goose chase, to stretch our resources, to try to make these kinds of cases painful to attorneys general who might dare bring them. The ability of a State to authorize its attorney general or recognize the inherent authority of the attorney general to enter into these contingency fee agreements is an important part of that State's own law. Simply put, Congress has no business telling elected State attorneys general what kind of contracts they can or cannot enter into which would be perfectly legal under State law.

I am especially surprised to see what appears to be significant Republican support for this amendment since it contradicts a very basic principle—federalism. Congress ought to let the States, whenever possible, govern themselves. As a former State attorney general who has had this experience of taking on powerful corporations with essentially unlimited resources, I believe strongly that State attorneys general should not have their hands tied by Congress so that they cannot aggressively pursue and punish corporate wrongdoing on a level playing field. That is all they ask for.

I will oppose the Vitter amendment for similar reasons. This amendment requires State taxpayers to pay the legal fees and costs if a manufacturer prevails in a consumer protection suit brought by a State attorney general. This appears to be an effort to weaken this important bipartisan legislation. First, it would obviously discourage State AGs from bringing consumer protection cases in the first place. If it looks as though something went wrong with the case, you would have to find a way to fund your opponent's legal fees. Second, it places an unreasonable burden on State taxpayers. Why, for instance, should the taxpayers of Rhode Island have to cover the legal fees for an out-of-State, possibly even an out-of-the-United States foreign company that has been charged with violating our consumer protection laws?

As a former State attorney general, I well understand that these amendments will have a significant effect, diminishing the ability of State attorneys general to enforce consumer protection laws. If these are good consumer protection laws, we want to see them enforced. We don't want to discourage those officials charged with their enforcement.

I urge my colleagues to vote against the amendments of my friends Senators CORNYN and VITTER.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, before I make my remarks on the pending amendment, I ask unanimous consent to speak for 4 minutes in morning business.

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

911 CALLS

Mr. STEVENS. Madam President, 911 calls are a lifeline for those in danger and essential for our public safety personnel to respond quickly to emergencies. Public safety communications are a priority for Senator INOUYE and myself as we work together on the Commerce Committee. In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended that a single number be established to report emergency situations. AT&T established 911 as the emergency code throughout the United States.

I come to the Senate today to speak about one of my constituents, a 4-year-old named Tony Sharpe. He is a preschooler in North Pole, AK. When his mother collapsed and lost consciousness during a gallbladder attack, Tony knew to call 911 because his grandmother had sent him a children's book called, ''It's Time To Call 911: What To Do in an Emergency.'' Tony called 911 and his mother received emergency medical help. Tony proves that proper education about 911 can help save lives. As a matter of fact, Tony, again, in another emergency, his mother had called 911 when they lived at another location. Once again, he had the privilege of helping his mother.

This week I had the honor of presenting the E–911 Institute's Citizen in Action Award to Tony. He sets a fine example for young people throughout the country and Alaskans are very proud of him. Heroic actions such as Tony's led Senator CLINTON and me to introduce S. Res. 468. It designates April of 2008 as the National 911 Education Month to recognize the need for education about 911 and make people aware of how the system works with new technologies. Ensuring that 911 is compatible with new communications technologies is crucial to the safety and security of all Americans. The E–911 congressional caucus has worked to pass legislation to improve 911 service. Last week the Senate approved S. 428, the IP-Enabled Voice Communications and Public Safety Act. This act will require communications services to provide customers with 911 access and establish a framework for IP-enabled

voice service providers to coordinate with public safety entities. It also ensures that the next generation of 911 systems reach rural America and are available to Americans with disabilities.

The Commerce Committee has worked on this bill for several years. I look forward to working with the House to send this bill to the President as soon as possible. We want to continue to ensure that our 911 system keeps up with changing communications technology and that Americans of all ages know help is only a phone call away.

AMENDMENT NO. 4094

If I may, I want to say I am pleased to be here when the statement was made about the amendment of Senator CORNYN. I have been practicing law for a few years; as a matter of fact, for well over 50. I do remember several instances where we had to have counsel and expert witnesses. The difference here is, what Senator CORNYN is saying is a contingent fee arrangement as an attorney general enforces Federal law, a decision of the Consumer Product Safety Commission. We want them to do that. But if they need expert witnesses or they need outside counsel, they should make an agreement with them. If they succeed and get the decision they seek, they will be entitled to recover those costs under the bill we have before us. Reasonable costs will be recovered. But a contingent fee to be charged by an outside counsel or by an expert witness means that if the attorney general is successful without regard to whether those people are used, they will get one-third, whatever it is, contingent recovery from the defendant.

This bill does not contemplate that there is going to be an award of damages in the sense of a normal damage type case. This is an action authorizing the attorney general to enforce a decision and make that decision applicable immediately within his or her State. We are seeking an outreach for enforcement, not an outreach for getting damages, particularly for utilizing the services of buddy-buddy lawyers or buddy-buddy expert witnesses to get money from defendants as we seek to enforce the decisions of the Consumer Product Safety Commission.

I support the Cornyn amendment because I do not like the concept of contingent fees involved in expert witnesses or outside counsel when it comes to this type of enforcement of a Federal decision. It is a decision of the Consumer Product Safety Commission. It should not be the basis for recovery based on contingent concepts in this matter. I do want to make certain that everybody understands the Cornyn amendment. If it is not properly drafted, I urge that it be changed so that there be no question about the right of an attorney general to recover the cost of the expert witness or recover the cost of the outside counsel if it is necessary for the attorney general to have one. But I do not want to see contingency concepts entered into this type of arrangement.

I was in private practice involved in plaintiffs' litigation. I understand full well the concept of contingent fees. They have been very useful in the sense where an attorney takes on a case and represents a client and, in effect, will do so without any compensation at all if they lose. But when they win, they share in that success by having their fee based upon a contingency rather than upon an agreement based on an hourly basis or a retainment basis.

But this is not that kind of situation. This is for an attorney general—an official of the State—giving them, at their request, the authority to enforce the Consumer Product Safety Commission's decisions in their State immediately rather than wait for someone to come from the Consumer Product Safety Commission to their State and take action against those who should abide by the decisions of the Consumer Product Safety Commission.

I support this entirely. It broadens the concept of enforcement. That is what we are seeking, that for decisions of the CPSC, to have enforcement available in 50 States immediately, if the attorneys general wish to do so. That will mean taking these toys and other things off the shelves immediately. But it is not the kind of situation that requires or should need an expert witness.

Beyond that, why would someone need an outside counsel on a contingent fee to enforce what has already been decided by the CPSC? All that is necessary is action within the State giving an order to give the attorney general the authority to go take stuff off the shelf or to tell the manufacturer to cease and desist. That is not a situation that involves a normal plaintiff litigation opportunity.

So I do urge particularly the lawyers in this Senate to understand what we are doing. We are not creating a contingency-type litigation field. We are only creating a situation where enforcement of the CPSC's decisions are capably extended to 50 States immediately upon a decision, which I think is going to help children. It is going to help the parents.

It is not a situation that requires the employment of outside counsel or expert witnesses. But if some situation arises where it is necessary because of a challenge to the defendant, then the attorney general can employ them, can recover the amount in terms of both the attorney's fees and the expert witnesses on an agreement basis, not on a contingency basis.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I thank Senator STEVENS for his comments on the Cornyn amendment.

I oppose the Cornyn amendment for several reasons, although I must say Senator CORNYN has been very fair in his dealings on this amendment. We have sat down with him. I have talked to him several times on the Senate floor. But let me give you a few reasons I oppose this amendment. I know some other Senators want to come and speak.

First, we have to remember what we are doing in the context of this legislation. We have drafted a bill that contains a provision where the State attorneys general can enforce what CPSC says. We made it very clear in this statute that the State AGs must follow the CPSC. They cannot get out in front of the CPSC.

One of the concerns by some in the business community, in fairness to them—not all but some in the business community—is where they have had the concern that there are going to be 51 standards; that it is going to be a patchwork, a crazy quilt of AGs running around out there. That is not what we are doing in this legislation. I believe we drafted the legislation very clearly, where the attorneys general must follow the CPSC. The CPSC remains in the driver's seat. That is very important.

The second limitation on the States in this legislation is that the State AGs can only pursue injunctive relief. In layman's terms, what that means is there are no money damages. They can only pursue injunctive relief. If you think about it, given the nature of what we are talking about, I think it is going to be the rare exception when a State would ever want to use outside counsel because by the nature of what we are talking about, if they found some dangerous product that is in circulation in their State, they—in my experience as attorney general—probably will approach that business, and probably that business will immediately respond by taking corrective action. That is probably what happens 99 percent of the time because the company does not want the bad publicity. They do not want the legal headache. Once you point out to them they are in violation of some Federal law, they are going to pull those products off the shelves, whatever the case may be. So it is going to be very seldom used.

But in the event the company does not do that, in every case I have ever heard of—and I used to be the attorney general of my State of Arkansas—in every case I have ever heard of, when the attorney general sues—excuse me, has to hire outside counsel to do it—those are complicated and expensive and in some cases long-term cases.

This is not one of those kinds of cases. These kinds of cases will be that when they find some violation in their State, they will want to act quickly. They will not want to have to go through maybe an RFP process. Or in our State, we had a statutory process we had to get signed off on by the legislature, signed off on by the Governor. All that takes time; you have to negotiate a contract; you have to bid it. I am going to tell you right now, most

States are never ever going to use outside counsel when it comes to trying to enforce CPSC rules.

Another reason—and this is just a practical reason, where the rubber meets the road—they are not going to pursue outside counsel to help them because it is injunctive relief only. In injunctive relief cases, there is no money, so there is no way to pay for the litigation. I think it is going to be very seldom used.

Now, I have had brought to my attention—at least one and there may be more—fee agreements that have been negotiated where there is some sort of contingent fee based on injunctive relief. Again, I have never heard of that. I do not know how you enforce that. If you do a contingent fee based on some value of injunctive relief, that money is going to have to come out of the State's hide. It is not going to come out of the defendant in the lawsuit.

So there, again, I think people are concerned about this, and I do not doubt their sincerity but, really, I think you are going to see this happen very seldom, if ever.

The last couple of things I want to say about the States attorneys general before a couple of my colleagues come and talk on this bill and other matters are, we have to remember who the State attorneys general are. They are elected officials. They were elected by the same people who elected us. The people in their home States trust them. They like the fact that the attorney general is out there looking after the public interest. They like the fact that the attorney general is looking after public safety issues. I will guarantee you, they like the fact they are out there making sure unsafe toys are taken off the shelves. So the people of the States, they have elected the attorneys general to do things such as this.

My experience in Arkansas and in talking to other AGs around the country is the people in those States have a high level of trust and confidence in their attorney general. And they know—we may not always understand this—they know the attorney general will not abuse this right they will be gaining under our Senate bill.

This Cornyn amendment smacks of micromanagement. I understand what he is trying to do. I appreciate it and I respect it. Like I said, I do not think you are ever going to see any contingent fee cases anyway. But regardless of that—maybe you will under some circumstances—let's allow the States to make that decision.

Again, almost all these States have some sort of a legal process they have to go through before they can hire outside counsel. Let's let the States do it. These State AGs in most cases are elected by the people of the State. There are a few who are not. A few are appointed by the Governor; appointed in one case by the State supreme court. But, nonetheless, let them make that decision. We do not need to micromanage this. Let them do what they believe is in the State's best interest. That is what this bill is all about anyway.

So I oppose the Cornyn amendment. But I certainly appreciate Senator CORNYN reaching out in the manner he has to work with us on this legislation.

With that, Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I ask unanimous consent to be recognized to speak for up to 10 minutes and ask that the time not count against the Cornyn amendment.

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

Ms. MIKULSKI. Thank you very much, Madam President.

First, I congratulate the manager of the bill, the Senator from Arkansas, Mr. PRYOR, on the outstanding job he has done to develop a modern framework for consumer product safety.

There was a time when I was the appropriator for the Consumer Product Safety Commission. Also, the Consumer Product Safety Commission is located in my State. I know what a consumer product safety agency does, I know what it should do, and I know what faithful, independent civil servants would want to do if they had the right leadership and the right authority.

I believe what the Senator from Arkansas has done is modernize the consumer product safety framework from when it was originally invented in the 1970s. Technology has come a long way. Products are more complex. Imports are on the rise. We know we need to modernize if we are going to protect Americans.

I view what the Senator from Arkansas has done as an act of homeland security because what is it homeland security does? It protects the American people from anyone who has a predatory intent toward the United States. I believe if you put lead in children's toys, if you knowingly look the other way when you make the blood thinner called heparin—that is a lifeline to so many people with heart disease—let me tell you, if you know you did it, and you know it is coming to the United States, or you are making something in the United States, standing up to protect the consumer is exactly an act of homeland security, and I congratulate the Senator in doing it and the bipartisan coalition he has put together. So he can count on me to support the bill.

But like any good idea, it can be improved. That is why I am here today. I have an amendment I wish to discuss that requires any food that comes from a cloned animal or progeny to be labeled. In other words, cloned animals have now been approved by the FDA to be safe for human consumption, even though most Americans actively oppose cloning and scientists say we should monitor it.

I have always taken the position that consumers have a right to know, they have a right to be heard, and they have a right to be represented. Yet when we talk about cloned food entering the marketplace, if it enters the marketplace, it has been deemed safe by the FDA, but when it comes to your table, to the restaurant, to school lunch programs, it will be unidentified, it will be unlabeled, and it will be unknown to you. Well, I find that unacceptable.

Here we have a picture of Dolly. Sad, isn't it? But nevertheless, Dolly is the first cloned animal. Dolly, or cows, or other animals, have been deemed safe to enter our food supply. So you could walk into a restaurant and you could have a ''Dolly-burger.'' You could go to a fast food chain or maybe that local malt shop that has so many fond memories for you in Missouri and you could have a ''Dolly milkshake.'' You could have ''Dolly in a glass.'' You could have ''Dolly on a bun.'' You could have ''Dolly on the table.'' You could have ''ground Dolly,'' ''pattied Dolly,'' ''roast Dolly,'' ''pot roast Dolly.'' But any way you have Dolly, you would not know you were eating Dolly. I say that is not acceptable.

What I wish to do, if appropriate, is offer an amendment to the consumer product safety bill, even though it is regulated by the FDA—and I acknowledge that—that would label them as being from cloned animals or their progeny.

Now, in this bill, we look out for toys, strollers, appliances and all of that is right and I salute my colleague, as I have said. But I also wish to look out for the food we put on our table.

People say: Well, Senator MIKULSKI, hey, the FDA approved it. Well, the FDA used to be the gold standard, but we have heard ''it is safe'' for too long. We were told asbestos was safe, but I have men who worked in the Baltimore shipyards who traded in their lunch bucket to carry an oxygen tank because of the lung disease they have. We were told DDT was safe. Do you want to be sprayed with DDT? Then there were people who said thalidomide was safe. No pregnant woman would take it today. Then Vioxx was safe. Would anyone with a heart condition or cholesterol want to take it?

So there are a lot of flashing yellow lights around FDA. Where are they the weakest? In postapproval surveillance. But you can't surveil unless you know there is a problem with a product.

The National Academy of Sciences said cloned food might be safe, but the science is too new. We need to monitor it. But you can't monitor it unless you know where it is. That is why I am for labeling. Labeling would tell us where the food is and we could do that postmarket surveillance.

I don't know why there is an urgency to do this—to have cloned food enter the marketplace. What labeling would do is it would give consumers the right to know that it is there. It would allow scientists to monitor. Also, it would protect our export markets.

I have talked about why it would be good science to have labeling so we can monitor and why consumers want to know, but what about the export deal? Well, you know what I worry about? I worry about our food being banned from exports because they don't know if cloned food is coming into their country.

There are those who already called our genetically altered products ''Frankenfood.'' They call it Frankenfood, and they don't want it to come in.

Our European trading partners have exhibited consistent concern about genetically altered products. My State exports food, particularly chicken. We are a big chicken State and chicken-producing State. We share that with the Senator from Arkansas. It has helped save our agricultural interests down there. So I want us to be able to export, and that is why I want whatever is cloned or its progeny to be labeled.

While we see Dolly in this photograph, I have to wonder what cloned food accomplishes. We don't have a shortage of food in our country. We don't have a shortage of milk in this country. For those who want to produce Dolly, we can't stop it, but we should stop the effort to put cloned food into the food supply without labeling and without informed consent. At the appropriate time, I will offer this as an amendment.

At this time, I wish to again thank my colleague for the wonderful job he has done. I am glad to be part of the effort. We need more fresh and creative and affordable solutions such as the Senator has done.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRYOR. Madam President, I ask unanimous consent that during this quorum call, the time run equally against both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4124

Mr. DEMINT. Madam President, I want to speak for a few moments on my amendment No. 4124, which focuses on section 31 of the underlying bill, the Consumer Product Safety Commission Reform Act. This section deals with garage door openers.

It is important, obviously, as the bill that addresses safety, to look at issues such as garage doors. I remind my colleagues that the whole reason for the Consumer Product Safety Commission is to evaluate the safety of various products. When we as a Senate or as a Congress as a whole take it upon ourselves to determine what is safe and what is not, we basically violate the principle of what we are trying to do—particularly when we get into even more detail, where we attempt to prescribe the particular technology that has to be used on certain projects before it is deemed safe. That totally goes around the idea of an expert panel on this commission, with the testing lab that we are going to fund, using their expertise and resources to determine the safety of a product.

This particular section, I am afraid, takes one particular technology that is only used in one product in one State and says that has to be the technology used on all garage door openers. This is something that, as a Senate, we all need to stop at this point. The precedent that it establishes for us to prescribe a particular technology violates everything we are trying to do here.

Let me talk specifically about it for a few minutes. Section 31 mandates that all garage doors in the United States include a device that doesn't require contact with an item or person, using photosensors, while prohibiting the sale of other technologies, namely the touch technology, in the United States.

Most new garage doors in this country—automatic garage doors—use a technology where if it touches something on the way down, it stops. It generally uses the pressure of about 15 pounds.

Specifically, the section states:

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

Keep in mind that it has been deemed safe to use the technology that is being eliminated by this bill. The language explicitly says ignore the experts at the Underwriters Laboratories. This effectively requires all garage doors to include a photosensor at the bottom of the door that reverses the door direction.

Why is this a problem? This provision puts Congress in the position of picking and choosing winners and losers in a highly technical area of safety regulation. No Senator has the expertise to determine what is a safe garage door technology. Most of the Members of this body are lawyers or businessmen, physicians and veterinarians, and we should not substitute the judgment of Senators who, by and large, have no technical background for the expertise of the engineers at the Underwriters Laboratories. By legislatively mandating that only one technology is safe, we are doing just that—requiring garage door manufacturers who sell garage doors to include these devices, increasing the cost to consumers, and it discourages innovation in the future. If we say this is the technology that has to be used, then the chances of new technology which improves safety and convenience in the future are diminished. Legislatively mandating that only one type of technology is safe enough for us in the United States will also help certain companies at the expense of others and discourage innovation in one of the areas where innovation is most important and should be encouraged, which is consumer product safety.

This will mandate away free market competition. It will boost the sales of companies that sell this required technology while hurting the sales of those that do not.

The Door and Access Systems Manufacturers Association, which is an association representing garage door manufacturers, recently voted on whether they would support this provision. They voted 14 to 1 to oppose the provision. I will let you guess who the one vote was that voted against it. It was Chamberlain, the company that makes the technology that is required in this legislation.

The inclusion of this provision in the Consumer Product Safety Commission Reform Act represents why the American people do not trust Congress. It represents Washington politics as its very worst. After the experts approved a competing technology for sale in the United States, this one company, Chamberlain, retained a high-powered lobbying shop in Washington and paid them in excess of $140,000 to secure inclusion in this provision. Because of the connections to the lobbying firm, it was able to secure proposed Federal legislation that would protect its company from competition.

Is the technology that the bill mandates the only safe technology? Not at all. According to the experts at Underwriters Laboratories, the technology the bill mandates is safe, but it is not the only safe technology. The Underwriters Laboratories, through its standard product certification process, has certified another technology as safe, which does not use a photosensor but uses approximately 15 pounds of resistance to trigger a reverse on the door.

For example, according to the Architect of the Capitol, the doors of the Senate subway that we all ride on, which carries thousands or maybe millions of people per year from the Dirksen to the Hart Senate office buildings, uses touch technology. If it touches an

object that provides more than 30 pounds of resistance, the doors will pop back open. The Senate daycare also uses the same technology on its doors, which reopen if they touch an object with 8 to 15 pounds of resistance. Thus, the technology that the Underwriters Laboratories found safe, which this bill deems unsafe, requires less resistance than the Senate subway doors and approximately the same resistance as the Senate daycare doors to reverse the course.

The fact is that touch resistance technology is being used all over our country today very successfully and safely. This bill prohibits its use in the future. The reason it prohibits it is one of the reasons people don't trust us here—because it is clearly not there to make America and American products safer, but to do a specific favor for a constituent with a lobbying firm that puts pressure here on Congress.

Why do my colleagues need to support striking section 31? As I have said several times, I think it represents the worst of the legislative process here, and we all know better. Congress should not use its power to override the opinions of congressionally designated experts, unless we have proof they are wrong. We should not promote legislation that would pick winners and losers in the marketplace. We should not pass legislation that would discourage innovation, especially when it comes to ensuring we have the safest technology possible to protect our children.

By striking section 31 of the Consumer Product Safety Reform Act, this amendment would give the experts at Underwriters Laboratories the final say in determining what technologies are safe for sale in the United States. The amendment would not give a competitive advantage to any company, and it does not strike any safety provisions. It simply restores the law to where it is today. It would only require that the experts decide what technologies are safe in the United States, which is the purpose of the whole bill. We give more funding to the Commission. We give them a more sophisticated testing lab to use. We are empowering the best experts in the country. It is not our job to come in and try to give one company an advantage because it happens to be in the State we represent.

Mr. President, I hope all of my colleagues will support the amendment to strike section 31 from the underlying bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, let me say that, again, I thank the Senator from South Carolina for being very constructive during this process and working on this legislation this week. We sat with him and his staff on a number of occasions to try to work through language in amendments. He has been a delight to work with on this matter. I appreciate that.

Let me talk about this garage door provision that is in the Senate bill. I think it is important for colleagues to understand the history of why, and why it is in there. You can look at existing law and, basically, what the Congress did years ago was to more or less allow Underwriters Laboratories to set the safety standards for garage doors. For years and years, there was a two-part safety standard. One dealt with pressure for a motorized garage door that, when it hit a certain level of pressure, would stop and reverse, and also some sort of noncontact systems, where if someone were to pass under the garage door, such as a baby crawling or whatever it may be, it would trigger these sensors and the door would never come down and touch in the first place. That has been the standard in this country for a long time.

But what has happened over the last year or so, UL has changed their standards and they have actually gone, in my view, backward by saying this pressure sensor is enough. They have updated the standard—and I may be overgeneralizing that a little, but they are basically saying you don't need that second safety mechanism. We all probably remember the years of the 1970s and 1980s when it was common for garage doors to kill people. It is not as common anymore, and power garage doors are much more common today than they used to be.

In section 31, we tried to not just restore the old law, but we tried to enhance it and improve it. This is what it says:

> All automatic garage door openers that directly drive the door in the closing direction that are manufactured more than 6 months after the date of enactment of this Act shall include an external secondary entrapment protection device that does not require contact with a person or object for the garage door to reverse.

This is a technology-neutral provision. Many companies make this laser technology we have all seen. I used to have one on my garage door where there is a mechanism that shoots a little beam of light. When you interrupt that contact somehow—I don't know exactly how it works—it triggers the door, stops it, and it opens. That is actually a fairly cheap piece of technology. I have heard estimates of that technology costing something around $10 per door. I am sure it depends on the brand, who installs it, where you buy it, et cetera. Roughly, as I understand, it is about $10 per door. It is very cheap, very inexpensive, very effective. That is the traditional laser technology.

As we might expect in today's world, there are all kinds of new emerging technologies. We do not know what the future holds. We do know that this technology the automakers are putting on their bumpers now, the reverse indicator, the backup warning—when you are backing up your car, some cars that have this technology will beep when you get too close to an object behind. Apparently, as I understand it—do not ask me to explain it in any detail—apparently, that is some sort of radar technology. Again, it is pretty cheap and pretty effective. Supposedly, the garage door people are coming up with some sort of new radar technology that some believe may be better or may be a good alternative, at least, to the laser technology. Apparently, there are other types of motion sensors. Again, I don't know all the technology, and I don't know how the technology is going to emerge.

What we are trying to do with this provision in this act is, quite frankly, have a little belt-and-suspenders here. We want to make sure we have two safety mechanisms on doors. That has really been, again, what Underwriters Laboratory set as the U.S. standard for years and years. Now they reversed that standard. I think they are going in the wrong direction. They are going back to basically one type of safety device, not having two per door. This is a stronger safety provision than what is currently under U.S. law.

Another point I wish to mention is there has been some discussion that this might set a bad precedent for us, the Congress, to set a safety standard; isn't this what CPSC is supposed to do? The answer is yes, this is what they are supposed to do, but there are many occasions where the Congress has specifically laid out safety standards. I will give a few: lawn mowers; garage door openers; bicycle helmets; a toy that has been banned called Lawn Darts that was unsafe, and Congress actually banned it; lead-lined water coolers. There are safety standards Congress has mandated on refrigerators and other products. Certainly, we authorize CPSC to come up with a lot of safety standards, and they should; they are the experts, but there have been many occasions in the past where Congress has laid out a safety standard for a specific product or specific item.

Here, again, this approach we are utilizing in section 31 is a little bit redundant. With safety, it is not all bad to be redundant. It is a little bit of belt-and-suspenders. Again, it basically would reestablish a previous standard in the United States that when you have a power garage door, there would be some sort of pressure mechanism with the motor, that when it feels the right amount of pressure, it will stop and reverse.

Also, there will be some, as it says, external secondary entrapment protection device. In other words, it would be separate from the motor. This is a very technology-neutral, very vendor-neutral phrase, and we will let the industry sort out what an ''external secondary entrapment protection device'' may mean because there may be technology on the drawing board today we know nothing about, maybe designs of these garage door systems about which we know nothing. Nonetheless, we want to make sure we have that double protection.

Mr. DEMINT. Will the Senator yield?

Mr. PRYOR. Absolutely.

Mr. DEMINT. Madam President, I appreciate the Senator's comments. I do wish to make it clear that while Congress has set many safety standards, it is very unusual for us to select and prescribe the technology that will be used to achieve those standards. For instance, a bicycle helmet has to take a certain amount of impact, but we do not prescribe what that helmet is to be made of. We do the same with automobiles and impact. We need to tell the safety labs, the manufacturers, what standards they have to achieve, but when we start picking the technology, we get way out of bounds.

I have the UL standards in front of me. I just need to clarify what my colleague from Arkansas said because the standard does require a primary reversing system as well as a secondary reversing system. So currently, most garage doors are going to have a system in the motor, and if it senses resistance, it will reverse, and there needs to be a secondary system. The way that is done today is either by some photo type of mechanism where if something crosses the path between the door and the bottom, it stops and reverses. That is one way. The other way is pressure sensitivity along the bottom of the door itself. But what the underlying bill does—the UL standard is it has to be an equivalent secondary safety measure; it has to be the photo type of system or the touch system. But this bill says it has to be the photo system. Frankly, from what we understand from talking with some consumers, there is not necessarily a lot of satisfaction with just the photo system because a door that goes down can be opened by a leaf blowing underneath it. But the touch system has been deemed just as safe by the Underwriters Lab, but it does not have the same inconvenience.

What we are asking is that we stick to the standards that are here, that we have a primary and a secondary reversing system but we allow the industry to pick whether it is a photo type of reversing system or a touch system, and let the UL system we have set up, the Consumer Product Safety Commission, determine which is safe and which is not. This bill says that only one way is safe for the secondary reversing system. Actually, the industry has already proven that there are other safe ways to do it which we need to continue to allow.

Again, I thank my colleagues for the opportunity to debate. I appreciate the intent of this amendment, which is to make garage doors safer, but I think we can leave the technology to the Consumer Product Safety Commission.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I rise today to oppose the DeMint amendment No. 4124 and explain why the garage door safety provision in the Consumer Product Safety Reform Act is really important.

Garage doors inherently pose a risk to families, particularly small children who could be crushed by the doors. The doors often weigh more than 300 to 400 pounds. Many families open and close them a lot of times during the course of a day. The 12 inches between closing the door and the floor, they call it the crush zone. A tremendous amount of force is generated as gravity pulls this 300- or 400-pound door down and it starts to come to the floor of the garage. This crush zone is a real risk for children, particularly small children. Small children live close to the ground—we all know that—and they are always in the crush zone when they are near a garage door.

For some time, this has been a serious risk. In the 1970s and 1980s, 67 deaths caused by garage doors were reported to the Consumer Product Safety Commission, and there were even more serious injuries. Most of these were caused by entrapment under the door.

Congress stepped in and passed legislation in 1980 that included a garage door safety standard requiring that doors have what is called an external secondary entrapment device. We directed Underwriters Laboratory to modify its standards. We gave it the force of a product safety rule.

The primary device most often is the drivetrain of the garage door. When there is an obstruction in the door's path, the drivetrain reverses. So if the door is coming down and senses something, it goes back up. In other words, when the door hits a person or object, the drivetrain will reverse. Unfortunately, this primary device does not always do the job adequately. That is why Congress required a secondary device to protect consumers.

The secondary device deployed by garage door installers for the past 15 years has been an optical sensor. This is technology that anyone who has owned a garage door over the last 15 years is familiar with. If you do not know it, go home and take a look. When your garage door comes up, look down at the bottom near the guide on one of the sides of the garage door, and you will see a tiny little photosensor light. It is like a beam of light. It is trained on another receptor on the other side of the garage door opening. It creates this photosensor. If you walk across that between those two devices, you trip it, and the garage light usually goes on, and the garage door knows someone is there, don't let the door come down.

We are trying to make this standard so no matter what kind of mechanical device you have that brings the door down, you are always going to have the secondary noncontact sensor. The door does not have to hit me in the head to turn around. I can trip it by walking through that doorway and breaking that photosensor light.

Senator DEMINT wants to eliminate that safety requirement. He believes it is unnecessary. First, let's put it in perspective, if we can.

How much do you think those little light devices cost? The answer? Five dollars. That is what it costs to buy those two little photosensors, one on each side of your garage door.

How much does a garage door cost? It is about $200 or $300 for the device to move it up and down. You can pay up to $1,000 for the whole door; $5 for the photosensor to save the child who is walking into the garage versus the $1,000 for the door. Is it worth it? If it is my kid, it is worth it. If it is my grandson, it is worth it. If it is about the neighbor's kid whom I dearly love, too, it is worth it.

Well, Senator, you didn't tell us how much it costs to install it. It turns out it costs $15 to install it—$20 total cost for this safety device on a $1,000 garage door, and Senator DEMINT says we don't need it.

Underwriters Laboratory that he quotes, in fairness to him, has been in the midst of deciding whether we move away from the photosensor to not requiring it. But they come out with a minimum requirement for safety.

What I am suggesting is, it is worth 20 bucks to every garage door owner and installer in America and to every family to have the peace of mind of this safety. Is it worth one kid's life, $20? I think it is worth a lot more. I think it is worth a lot for us to include it, and I am glad it is in the bill.

The secondary device deployed by garage door installers, as I said, for 15 years has been this optical sensor. It is not new, questionable technology. It works. I have seen it work on my own garage in Springfield, IL. I wondered why the garage door wouldn't come down. Finally, I figured it out. The optical sensor lights were not tracking on one side. A simple little adjustment, and everything worked fine. The minute I crossed those lights, the garage door mechanism knew not to close. When an object breaks the beam, the garage door reverses.

Since this requirement has first been put into effect, during the last 15 years, injury and fatality rates by garage doors have dropped dramatically—dramatically. An ounce of prevention, that is what we are talking about here, a $20 expense to make sure a child is not injured or crushed by a 400-pound garage door coming down.

The Underwriters Laboratory standard for garage doors was modified in the late 1990s to allow for a new type of technology to serve as the secondary device. That technology, like the primary device, required direct contact. The problem with this standard is it relies entirely on contact when an effective, inexpensive system that does not require context exists.

Underwriters Laboratory is a fine organization. I have worked with them over the years, and I really believe they do a good job. But they do not provide maximum protection. They provide minimum protection. This bill, asking for another $5 device and $20 total cost, is going to provide even more protection for families.

Who supports this bill? Who supports this amendment that Senator DEMINT wants to strike? The Consumer Federation, the Consumers Union, U.S. PIRG, and Public Citizen. Those four are the leading groups on consumer safety in America today. None of them work for any companies. They work for the common good, for families across America, trying to make sure safety and consumer interests are protected. They joined in a joint letter saying they support the language that is both appropriate and protective of consumer safety and that a noncontact sensor is a valuable safety requirement.

I know my friend has offered this amendment in good faith, but I would tell him, I believe that requiring this photosensor and protecting kids who might wander into this crush zone is not too much to ask. I would rather vote for this and have somebody say it is belt and suspenders than to have on my conscience that we walked away from this tiny, almost insignificant cost to the garage door, than lose a child's life in the process. That would be something which would be hard for me to reconcile.

So I urge my colleagues to join the leading consumer groups across America, join the cause of common sense, and be willing to put a $20 cost onto a garage door and possibly protect the life of an innocent child.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, I would like to clarify some of the facts my colleague is talking about because there is nothing in my amendment to strike or prohibit the use of this phototechnology. If that is deemed the safest by the manufacturer, then certainly it can be used. But the secondary reversing device that uses touch technology has had no injuries. It has been deemed safe as well. In the future there are likely to be even better and safer and maybe even more economical ways to make garage doors safe.

The reason we need to strike this provision is because it limits consumer safety to one idea—one idea that exists today. It prescribes for the UL laboratories that it has to be done this particular way instead of us saying, as a Congress, it has to be safe. If we want to prescribe those standards, that is fine, but I am afraid we are distorting the information. We need to allow the opportunity for innovation in safety in all areas.

There is nothing that says this phototechnology is any safer than the touch technology we have talked about, which is another option being used by garage door companies today. So the argument to keep this in is totally parochial. It is not about safety for children, which has been spoken about today.

We believe the current standards that have a primary and secondary reversing system are important and that we need to encourage manufacturers to innovate on the safest ways to make that happen and that the labs we have put in charge of determining safety can look at these different ways to make garage doors safe and tell us which ones are the safest and tell consumers which ones are the safest. It makes absolutely no sense, and it is a terrible precedent for us as a Senate to come in and say: This is the technology that always has to be used in order to be safe, and we have no standard associated with it. We say, this is the technology.

Our job is to set the safety standards and say products should be safe, not to act on behalf of companies that happen to be in our States and say you use their technology or you don't use any at all. That is not what my amendment says. My amendment says: Find the very best technology, make it as safe as possible, but don't prescribe how that has to be done.

Madam President, I yield back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. PRYOR. Madam President, I ask unanimous consent that the vote in relation to the Cornyn amendment, No. 4094, as modified, occur at 4:45 p.m., with the provisions of the previous order remaining in effect.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. PRYOR. Mr. President, I wish to address my colleagues here for a minute and tell them about our status and what we are trying to accomplish this week. Of course we are on the Consumer Product Safety Commission reauthorization bill.

Again, I thank all my colleagues on both sides of the aisle for their spirit of cooperation that we have seen all week. It has been exemplary. I appreciate it. I have told several of you that privately and publicly. It has been great.

Our status is right now we are going to have a vote at 4:45 on the Cornyn amendment. It deals with attorney's fees with regard to attorneys general. We are going to have a vote on that.

Then we would love to set up more votes tonight. We have several amendments that have been filed that are pending. It is not a long list, but we do have several. We would love for Senators, if at all possible during this vote, to come and talk to me or talk to Senator STEVENS or talk to our staffs about how you wish to see your amendments sequenced.

I think it is very realistic that we can finish this bill tomorrow. At some point tonight, we are all going to sit down and begin to work very diligently on a managers' package. We have had several amendments, noncontroversial, or that we have made modifications to. There has been a lot of progress made. I know sometimes when you watch the Senate you wonder if anything is going on. A lot of progress has been made. Again, I thank all of my colleagues for that.

So we are going to sit down tonight and work through a managers' package. If a Senator wishes their amendment included in the managers' package, please let me or Senator STEVENS know. We are going to be working on that very diligently tonight. That is where we stand.

We encourage people, if they want votes for their amendments, to please let us know. We encourage people to come in and talk about their amendments. We encourage Senators to work together and either try to get their language included in the managers' amendment or have a vote on it tomorrow or tonight. We would love to have some more votes tonight. We think there are at least one, two, or three that we may be able to vote on tonight, realistically. So I wanted to alert Senators to that fact.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, if I can engage the Senator from Arkansas for a minute to clarify. I do have this amendment that is germane that deals with a chemical that has shown up in microwave popcorn and has proved to be fairly deadly to workers; in one case at least that we know about, in consumers.

I understand we are having a vote in 5 minutes. Would it be amenable if I spoke about this amendment? I believe it is at the desk. The amendment is at the desk. If I could speak about it until it is time to vote. Would that be something you would encourage?

Mr. PRYOR. Yes. I have no objection to that. We have spoken on the Cornyn amendment extensively.

Mrs. BOXER. Thank you.

The ACTING PRESIDENT pro tempore. The majority's time has expired.

Mrs. BOXER. I have the time.

The ACTING PRESIDENT pro tempore. The Senator from Texas controls the balance of the time.

Mrs. BOXER. I am confused. Can someone explain that—I had the time. I was recognized by the Chair—as to why I do not have the time?

The ACTING PRESIDENT pro tempore. There was a previous order allocating 10 minutes, and the majority's time has expired.

Mrs. BOXER. I ask unanimous consent that I have 2 minutes before Senator CORNYN to explain this amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mrs. BOXER. I would add 2 minutes, if that is okay, and then I am done.

Mr. CORNYN. Reserving the right to object, and I will not object, I am happy to do that as long as I preserve my 5 minutes before the vote.

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

Mrs. BOXER. Of course that was my intent, Mr. President. I mean no disrespect in any way.

AMENDMENT NO. 4127

I wanted an opportunity to talk about an amendment that I have at the desk. It is germane. It would ban certain uses of a chemical that poses very serious health risks to the lungs of consumers and workers.

In recent years, scientific evidence has mounted that a chemical called diacetyl seriously harms the lungs of workers in factories making microwave popcorn. I am sure you have read about it, because there is a huge list of stories that appeared in the press about doctors linking illnesses to this particular chemical.

Also there is documentation that says that the large popcorn manufacturers have banned this chemical. But we do not have a ban in law, which means it is simply not fair. We have some companies that have banned it, but we have not acted to ban it. I think it is so dangerous. It causes the tissue inside the lungs to get clogged and creates scar tissue and inflammation and it leaves the victim struggling to breathe.

That is the reason Senator KENNEDY has teamed up with me on this amendment. The severity of the lung symptoms can range from only a mild cough to a severe cough, shortness of breath. These symptoms do not improve when the worker goes home at the end of the day, and severe symptoms can occur suddenly. The worker may experience fever, night sweats, and weight loss. Doctors were very puzzled, but they finally found a link with this chemical.

I am not going to go on. I have a lot more to say on this. I hope it will not be necessary for us to have an argument about this, since the large companies have already banned it. It seems to me only right that we follow their lead and do so in law. My amendment simply levels the playing field for all microwave popcorn makers, including importers and small manufacturers, by banning this chemical, diacetyl. I urge my colleagues at the appropriate moment to please support this.

I will say to the Senator from Arkansas, Mr. PRYOR, if it is possible, I hope this will not be controversial. Perhaps it could be part of the managers' package.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

AMENDMENT NO. 4094, AS FURTHER MODIFIED

Mr. CORNYN. Mr. President, I ask that my amendment be modified with the changes at the desk. My modification makes clear that the expert witness fees are part of the recoverable costs and fees that the State attorneys general can recover. I appreciate Senator STEVENS for raising this concern to me and hope my modification is responsive to his concerns.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Texas has already been authorized.

The amendment, as further modified, is as follows:

On page 58, strike lines 4 through 7 and insert the following:

''(g) If the attorney general of a State obtains a permanent injunction in any civil action under this section, that State can recover reasonable costs, expert witness fees, and reasonable attorney fees from the manufacturer, distributor, or retailer, in accordance with section 11(f).

''(h)(1) An attorney general of a State may not enter into a contingency fee agreement for legal or expert witness services relating to a civil action under this section.

''(2) For purposes of this subsection, the term 'contingency fee agreement' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.''.

Mr. CORNYN. Mr. President, first we are told that the reason why State attorneys general need to be explicitly authorized under this statute to pursue these consumer complaints is so there is no risk of runaway lawsuits, because they will be confined to seeking an injunction in Federal court. I actually support that provision of the bill.

Then we are told there is an objection to my amendment, which would prohibit State attorneys general from entering into contingency fee arrangements in order to pursue authorized activities under this bill, that there is no reason for the amendment. Next thing I know, there is a document circulated by the American Trial Lawyers Association arguing the only way consumers can get access to the court is by allowing the outsourcing of the responsibility of the State attorneys general under a contingency fee arrangement which makes me mighty suspicious whether this is, in fact, a Trojan horse to allow trial lawyers basically to do the work elected State attorneys general should be doing and that currently the Department of Justice is doing. All my amendment is designed to do is to make sure the purpose for which the State attorneys general are authorized—that is, to seek an injunction only—is maintained and that it not be allowed to serve as a Trojan horse to outsource these responsibilities. There are some very important public policy reasons for that. No. 1, trial lawyers hired by State attorneys general are not accountable to the public.

We have seen examples. I mentioned some in the tobacco litigation, where there were serious abuses that could not be rectified by the electorate when it came to holding public officials accountable. Those public officials in some cases left office; some, such as my predecessor, as attorney general in Texas, went to Federal prison because of misconduct associated with those kinds of arrangements. This amendment is prophylactic in nature. But I will tell you I am concerned it has been mischaracterized. It will not prohibit State attorneys general from contracting with outside lawyers on an hourly rate arrangement under the same circumstances under which lawyers can be reimbursed now. But it will prevent the sort of trophy hunting and the outlandish attorney's fees that were awarded in the tobacco litigation through these contingency fee arrangements. It is something that is within the power of this body to correct. I hope my colleagues will join me in passing this commonsense amendment which is entirely consistent with the underlying purposes of the bill. I worry this is being used as a Trojan horse for other purposes. But if my amendment is passed, I think we can all lay this matter to rest and realize consumers will be protected, but it will not be used as a pretext for enriching private lawyers and political constituencies.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. CORNYN. My understanding is there was 10 minutes divided. If there is no other response, I will yield my time back, if the majority yields back their time.

Mr. PRYOR. I yield back my time.

The ACTING PRESIDENT pro tempore. All time is yielded.

Mr. PRYOR. I move to table the Cornyn amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant journal clerk called the roll.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—51

Akaka	Cantwell	Durbin
Baucus	Cardin	Feingold
Bayh	Carper	Feinstein
Biden	Casey	Harkin
Bingaman	Conrad	Hatch
Boxer	Dodd	Inouye
Brown	Dorgan	Johnson

Kennedy	McCaskill	Salazar
Kerry	Menendez	Sanders
Klobuchar	Mikulski	Schumer
Kohl	Murray	Smith
Landrieu	Nelson (FL)	Specter
Lautenberg	Nelson (NE)	Stabenow
Leahy	Pryor	Tester
Levin	Reed	Webb
Lieberman	Reid	Whitehouse
Lincoln	Rockefeller	Wyden

NAYS—45

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

NOT VOTING—4

Byrd	McCain
Clinton	Obama

The motion was agreed to.

Ms. CANTWELL. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I have had a conversation with the Republican leader—in fact, several of them. I have talked to the two managers of the bill, Senator STEVENS and Senator PRYOR. We have made very good progress on this bill. As I said when we opened this morning, I think this is a good way to legislate. We are on this piece of legislation. It is a bipartisan bill that the Commerce Committee spent days of their time working on to get to the point where we are now. Is it a perfect bill? From my perspective, it is really good. Others who know the issue better than I may not think it is perfect, but I think it is a pretty good piece of legislation. We have had a number of amendments offered, and we have voted on several of them.

At this stage, there is nothing that I think we can vote on tonight. I want the managers to work during the evening to see if there is something we can do tomorrow constructively to move toward finalizing this.

The Republican leader and I usually don't agree on issues such as this, but I think it would be to the benefit of the Senate if—before we go out tonight, I am going to file a cloture motion, just to protect us in case it appears we are not going to be able to finish. I have told Senator STEVENS that when I file that tonight, I will say—and I will say it here—that we can go to third reading anytime tomorrow when this issue is over with and we, of course, won't do the vote on cloture. If this doesn't work, then Friday we will have to have a cloture vote. So I hope everyone understands the good intentions of the two managers and everyone else who has been involved in this piece of legislation.

So I will come out later tonight and formally file a cloture motion. Until then, I hope more progress can be made on the legislation. I think it is fair to say there will be no more votes tonight.

AMENDMENT NO. 4096 WITHDRAWN

Mr. KYL. Mr. President, I ask unanimous consent that the DeMint amendment No. 4096 be withdrawn.

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

The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, just to reiterate what the leader said a few moments ago, we are making great progress. Again, I thank my colleagues on both sides of the aisle. Everyone has been very reasonable.

My sense is that this body really wants to get this done tomorrow. I can tell my colleagues right now that our staffs will be working, burning the midnight oil tonight trying to put together a managers' package. We made progress during this vote, with one or two amendments going away.

So thank you to all of my colleagues who have been working so hard to get us where we are today. We will continue to work. Again, if any Senator's staff wants to come and talk to us about amendments or something they would like to see in the managers' package, now is the time to do it because we are about to work very hard to try to get this bill done tomorrow.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE ECONOMY

Mr. DODD. Mr. President, I rose to address the Senate less than a week ago about this present economic set of circumstances in the country. Obviously, the foreclosure issue is a major question that is causing serious problems all over the country. In fact, it is now becoming more of a global issue than just a domestic issue. I know there have been serious efforts, and I commend the majority leader and others who have tried to put together—along with those of us on the Banking Committee, the Finance Committee, and the Judiciary Committee—a proposal that would offer some hope and some confidence-building measures to grapple and deal with the foreclosure issue, which is the epicenter, obviously, of this economic crisis we are all seeking answers to.

I thought it might be worthwhile to take a couple of minutes this afternoon to again urge the minority—I have worked closely with Senator SHELBY, and let me just report on a favorable note that I think we are fairly close to having an FHA reform bill that we will be able to adopt very quickly. While that is not going to solve all of the problems, it is yet another piece in this economic puzzle that deserves our attention. I am hopeful and confident we will be able to do that in relatively short order.

I commend the chairman of the Financial Services Committee, Congressman FRANK, BARNEY FRANK of the other body, for his work—the work they put together on a bipartisan basis in the House—and his willingness to compromise on this issue so that we can achieve a proposal that would enjoy broad-based support both here and in the other body.

This issue we are facing today is a very serious one. I hope all of my colleagues appreciate that statement. That is not hyperbole; the realities are there. One cannot pick up a morning newspaper—it is no longer just in the business section; these issues are now front-page stories with fears of growing economic dislocation, a slowdown in our economy that we have not seen in years, with housing values falling nationally at rates that one has to go back literally to the Great Depression to find similar national statistics. We have rising unemployment rates and rising inflation rates. The cost of a barrel of oil once again is exceeding $100 a barrel. Food prices—my colleague from Rhode Island, the Presiding Officer, pointed out the other day, just in terms of bakeries in the country, the rising cost of wheat. The price of wheat has risen dramatically in the country. These are examples of what is occurring that contributes, obviously, to a worsening economic situation in our country.

All we are hoping for here—or I had hoped for before the Easter Passover break—is that we would be able to adopt a series of measures that would attract broad-based support that could offer some relief, some confidence, some optimism to people across the country. I am less optimistic that it is going to happen in a broad sense, but I am still hopeful that FHA reform might be adopted before we leave.

We are facing a very serious situation, and we are doing so in a much weaker position than we were just 7 years ago, the last time that our nation was on the brink of a recession. This is not a partisan or an ideological statement. When the Federal Reserve Chairman, Governor Bernanke, was before the Banking Committee last week, I asked him whether he thought we were in a worse position today to respond to the problems we are facing than we were when we last faced a recession in 2001. The Chairman of the Federal Reserve agreed that we are indeed in a worse position today than we

were 7 years ago. He specifically said that the standard monetary and fiscal policy tools we have to confront economic downturns are far more constrained today than they were 7 years ago. He also said the American consumer is facing the brunt of this economic downturn.

The incoming economic data show how serious the problem is. The Nation's economy has slowed to a near standstill in the fourth quarter, with overall GDP growing by less than 1 percent and private sector GDP growing by only one-tenth of 1 percent.

The country had a net loss of jobs in January. That is the first time we have lost jobs in over 4 years. Incoming data on retail sales has been very weak, and most projections, by the way, by private economists and by the Federal Reserve for economic growth this year have been revised down sharply.

The Vice Chairman of the Federal Reserve, testifying before the Banking Committee yesterday, indicated that the next several quarters do not offer much hope at all that this economy is going to strengthen. Credit card delinquencies are on the rise as consumers find themselves increasingly unable to tap the equity in their homes to help pay down credit card debt and other financial obligations.

Lastly, as I mentioned a minute ago, inflation has increased by 4.1 percent this year. That is the largest increase in 17 years, driven mainly by the rising cost of energy, food, and health care. Oil prices are above $100 a barrel, and the U.S. dollar is at the lowest point in modern history since we began freely floating our currency in 1973.

This economic decline has been reflected in the falling stock prices, the falling currency, and the increased volatility in the securities markets.

Our economy is in trouble, which is to state the obvious, and the data clearly confirms that, but we don't necessarily help the situation by just acknowledging that. What are we doing? What steps are we taking in this body and in the other body? What steps is the administration taking? What steps is the Federal Reserve taking, and others, to reverse these trends and to offer some hope?

I don't want to engage in a self-fulfilling prophecy by reciting the data that is going on here without suggesting that we might not be able to do some things that could help.

As I said previously, the catalyst of the current economic crisis is the housing crisis. Overall, 2007 was the first year since data has been kept that the United States had an annual decline in nationwide housing prices. A recent Moody's report forecasts that home values will drop in 2008 by 10 to 15 percent, and others are predicting a similar decline in 2009. This would be the first time since the Great Depression that national home prices have dropped in consecutive years.

If the catalyst of the current economic crisis is the housing crisis, then the catalyst of the housing crisis clearly is the foreclosure crisis. I have said that over and over again over the last number of weeks.

What steps have we taken?

Last week, it was reported that foreclosures in the month of January were up 57 percent compared to a year ago and continue to hit record levels. When all is said and done, over 2 million Americans will lose their homes, it is predicted. There are already 1.4 million homes in foreclosure nationally, including over 14,000 in my home State of Connecticut, according to RealtyTrac, which publishes these figures, as a result of what Secretary Paulson himself has called ''bad lending practices.'' These are lending practices that no sensible banker, no responsible banker would have engaged in. Yet they did. Reckless and careless, sometimes unscrupulous actors in the mortgage industry allowed loans to be made that they knew many people would not be able to afford, particularly when they reached the fully indexed value and price. They engaged in practices that the Federal Reserve, under its prior leadership, did absolutely nothing, in my view, to effectively stop.

This crisis affects more families who will lose their homes. Property values for each home located within one-eighth of a square mile will drop by $5,000. That is another specific decline. Another statistic which is not often quoted is that when you have neighborhoods that end up with foreclosed properties, the crime rates go up about 2 percent automatically. So you get declining value with increased crime rates, and, of course, declining values and foreclosed properties mean less property taxes coming in to local counties or communities, which, of course, affects services, including fire, police, and emergency services, not to mention social services. So you get a contagion effect.

We now know it has spilled over into student loans. The State of Pennsylvania and the State of Michigan have indicated there may be no student loans available this year. For hardworking, middle-income families who may be current in their mortgage obligations and who are managing their finances well, to find out that their students, their children may not qualify or find student loans available will be yet another added hardship in this country.

So this matter is spilling out of control. I know from time to time people say that is excessive language. It is not excessive at all. What disturbs me deeply is that while I don't claim there is any one silver bullet answer to this, and I would be the last to suggest there was a simple package of four or five items that might help cure all of the housing problems.

I am not saying anything that is not known by others. The troubling data on the housing market and the economic situation is readily available. It is being reported on a daily basis in the national media. The question is, what are we doing, if anything, to try to reverse these serious trends; to offer some optimism and confidence from this body, the Senate, the Congress of the U.S., the administration, and the regulatory bodies? What can we do to act in a responsible and constructive manner to get the country back on the right track?

Yesterday, I chaired a hearing in the Banking Committee with representatives of the Federal bank, thrift, and credit union regulators. The evidence strongly suggests that they were asleep at the switch as this crisis built and when the alarm went off, they merely hit the snooze button. The Federal Reserve, in particular, candidly acknowledged—and I appreciate Don Kohn's testimony—that they failed to properly assess and address excessive risks that were being taken.

The regulators abandoned proven standards of applying good judgment and strong supervisory oversight. Instead, they relied on models and estimates that were being used to justify that there was no housing bubble. These models and estimates were wrong.

What is so troubling is that questions were raised about them some years ago, before the bubble burst, by regulators people such as Ned Gramlich who, when he sat as a Governor of the Federal Reserve, warned that this problem was growing. The staff at these agencies knew this as well. Yet nothing was done. The warning flare shot into the sky by him and others went largely ignored.

Now that this bubble has burst, the regulators are telling us they are ''studying'' what went wrong. While studying the problem has its place, and I appreciate that, I must say that conducting studies of the crisis in the economy and financial markets is, of course, like firefighters responding to a fire by picking up a book and studying how to put out a fire rather than going and doing the job.

I think we all know we need action today, not complacency by the frontline bank regulators. That is why Senator SHELBY and I will continue to press the regulators for the actions they are taking to address the serious problems that our country is facing. I commend Senator SHELBY, who I thought yesterday had good and strong questions for the regulators. The answer we got was that people were too complacent. Many speeches were given and informal conversations took place, but the job of a regulator, the cop on the beat, is not just to give speeches and have informal conversations. If the staff at these agencies knew this bubble could burst, that there were serious problems, that Governors at the Federal Reserve Bank were warning about this problem we are facing, giving speeches and having informal conversations was hardly the kind of action we should have been expecting from very important agencies charged with the

responsibility of seeing to it these kinds of problems would be handled before they became as significant as they are today.

Congress, too, I think should act. Again, I am not suggesting any one specific action, but the idea that we have no role to play while we are watching this wave grow of people who are going to lose their homes—by the way, the estimates are we could be looking at as many as 2 million to 2.5 million families who could lose their homes, and the effect will be as many as 44 million to 50 million homes as a result of the value of homes exceeding, of course, the financial obligations on the residences. If that is the case, and if it goes on too long, and if unemployment rates continue to rise and energy costs continue to rise and student loans become less available, and the cost of education goes up, and health care continues to go up, families who would have been able to manage owning a home under normal circumstances will have serious trouble surviving these economic circumstances. If these problems increase, for families that have a mortgage in excess of the value of the property, and the home value continues to decline, obviously, those families are going to face additional troubles. Therefore, the problem spreads beyond just—not as if it were just 2, but 2.5 million who are losing their homes to a much larger constituency in this country.

So this problem is serious. We are now in another week. I have great respect for what is going on here and dealing with the legislation at hand. But as the majority leader said over and over again, this housing matter is the most serious one in the country. I think the failure to get some agreement and understanding on a package of proposals that we could go forward in a bipartisan fashion is tragic. We will be in here next week on the budget and then we are gone for 2 weeks. While this may seem like academic issues to some people here, if you are that American homeowner out there who lost your job and is watching energy costs go up, with kids you were planning on getting a college education, and student loans may not be available, then this is not an academic issue to you at all.

The question is, Where are the people here doing their job? The majority leader offered and said this is the problem we ought to be addressing. Yet because of whatever reasons, we are unwilling or unable to come together to offer some ideas that could offer relief and optimism. I think it is terribly wrong and I worry about the consequences of inaction.

I know there have been disagreements about what steps to take. That is legitimate. Candidly, this issue ought to be addressed in a far more urgent fashion than is the norm. If there are different ideas on bankruptcy or tax policy or even on the community development block grant idea or the counseling ideas that are all part of a package we had suggested, then let there be a debate about it; let alternatives be offered. But if we cannot spend a few hours or days talking about an economic crisis that has as its center a foreclosure crisis and a housing crisis, then what are we doing here?

This problem is mounting, growing, getting more serious every single day. The failure of this institution to respond in a more responsible way I, again, deeply regret. One point I hope we can all agree on is that doing nothing is not an option. Yet that is what is happening at this very hour.

We need to work out these differences and provide solutions that will work. To that end, I will continue to work with my colleague from the Banking Committee, Senator SHELBY, on several key issues. I thank him again for his willingness to move forward. We are working together with our counterparts in the House on a final version of the FHA legislation that I mentioned. That bill passed 93 to 1 just weeks ago. My hope is that the House and Senate can resolve those differences and present a final product before we leave next week.

Modernizing the Federal Housing Administration is a critical step in responding to the housing crisis. Another important step is comprehensive Government-sponsored enterprise reforms, GSE reforms. I am committed to that issue. We have another hearing I will be holding on that tomorrow, in fact, at the Banking Committee level. So we can hear views from all sides before drafting what I hope will be a bipartisan bill, that we can bring to the Chamber rather quickly for its adoption.

As Chairman Bernanke said several days ago in the Banking Committee, our country is in a worse economic situation today to face a recession than we were 7 years ago. Traditional monetary and fiscal tools might not be adequate to face the unprecedented challenges our economy is facing, with national home prices falling, as I mentioned earlier, for the first time since the Great Depression. We must hear new ideas and proposals to address these problems. The strength of our economy 7 years ago is not there today. We don't have the strength of the dollar, we don't have low inflation, and we don't have low unemployment. Our fiscal situation is a far cry from where it was 7 years ago. So we are in a very different situation to rely on traditional market forces to act as a cushion against a likely recession. We need to think creatively about ways to avoid what is growing and, quite obviously, going to come if additional steps are not taken.

Unfortunately, the administration has so far been reluctant to hear new ideas and take action on proposals to address these problems. At every single turn of this housing crisis, the administration has been one step behind, unfortunately: one step behind the 2.2 million homeowners facing foreclosure last year; one step behind the financial markets which started tightening credit for student loans and other consumer needs last summer; one step behind those of us in Congress who have called for solutions to the foreclosure crisis for more than a year now; one step behind the regulators at the FDIC who have urged broad-based modifications for homeowners since last spring.

Sheila Bair, former legal counsel to Senator Bob Dole, deserves great credit. Almost a year ago, the FDIC, under her leadership, was calling for actions to be taken. Had we acted then, I think the problem would have been a lot less severe than it is today.

Now the administration is again one step behind this time, behind the Federal Reserve who is now calling for more action before the housing crisis gets worse. I commend Chairman Bernanke again for his candor and for the speech he gave yesterday in Florida, calling for more creative action before the problem grows worse, as it does almost hourly.

It took some time for the Federal Reserve to acknowledge the severity of the housing problem, but they have come around. Days after I convened the first hearing of the 110th Congress on foreclosures, Federal Reserve Board Governor Susan Bies said she didn't ''think there will be a large impact on the prime mortgage industry.'' Last March, Treasury Secretary Paulson reinforced that benign and incorrect view, saying that the economic fallout from the housing market would be ''painful to some lenders, but . . . largely contained.''

By the time I held a second hearing on the subprime abuses on March 22 of last year, the Federal Reserve finally acknowledged that the Fed had acted too slowly to address mortgage lending abuses. The Fed pledged then to do more to protect homeowners. Unfortunately, the administration continued to deny the severity of the problem.

Throughout last spring and summer, the Treasury Secretary commented that ''we are at or near the bottom'' of the housing correction and there was no risk to the economy overall. When the Treasury sends such rose-colored messages to the public, it is no surprise that the administration and the industry were slow to assist homeowners with broad-based loan modifications.

I organized the first Homeownership Preservation Summit in April of last year, to bring together the Nation's leading mortgage loan servicing companies, regulators, and community organizations to discuss a timetable and a tangible solution to reduce foreclosures. But the private sector, acting alone, yielded minimal results. Moody's found that just 1 percent of loans had been modified in the spring and summer of last year. Instead of taking action throughout these months to help homeowners, the administration continued its happy talk about the

housing market and the economy. The Treasury stated in July that troubles in the housing market were ''largely'' over and ''contained.'' It wasn't until November, just a few months ago, that the administration convened its own homeownership preservation summit. Unfortunately, during those 7 months that passed, tens of thousands of new homeowners became delinquent on their mortgages.

Instead of working with us in the Congress to develop solutions for homeowners over the summer, the Treasury Secretary said on August 1 that he did not see anything that caused him to reconsider his views, that the economic damage from the housing correction was ''largely contained.'' Echoing Secretary Paulson's benign assessment of the housing market, just days later, President Bush said, ''It looks like we are headed for a soft landing.''

Later that month, in August, I met with Secretary Paulson and Federal Reserve Chairman Bernanke, urging them to use all of the tools at their disposal to address the mortgage market turmoil. I wrote a letter to the Treasury Department and the Department of Housing and Urban Development urging them to move expeditiously to make administrative changes to the Federal Housing Administration single family insurance program to help borrowers escape abusive mortgages by refinancing into more affordable FHA loans.

Throughout the fall, FDIC Chair Sheila Bair and I advocated for systemic loan modifications to help homeowners facing foreclosure. Instead of using his authority and influence to promote such solutions, the Treasury Secretary said, ''The idea of across-the-board modifications is not something that this group [of large subprime servicers] is looking to do . . . and it's not something we in this administration are advocating.'' Weeks later, however, the Treasury Secretary changed his view, saying they saw an ''immediate need to see more loan modifications and refinancing and other flexibility'' and a standardization of loss-mitigation metrics to evaluate servicers' performance goals.

If I have learned one lesson from this housing crisis, a lesson all of us should have learned, it is that delayed action will cost families, neighborhoods, the economy of our Nation, and, of course, the taxpayers more and more money than timely action would have avoided. Instead of turning a tin ear, we must listen to the growing chorus of homeowners, lenders, servicers, housing counselors, economic experts, and regulators who are calling for bold action to prevent this housing crisis from becoming worse than it is today. I believe bold action must include financing options for homeowners through FHA, the GSEs, and a new fund at FHA that I propose to use to preserve home ownership.

We must also do more to slow the tide of foreclosures that are overwhelming many of our communities. And we need to give our local officials the tools and resources to cope with these increases in foreclosed properties. In doing so, we will help break, I believe, the downward cycle that is pushing our economy toward a recession, if we are not already in the middle of one.

By acting, we can bring some certainty where today only uncertainty exists. We can help restore the confidence of consumers and investors that is indispensable to economic progress for our Nation.

There are some steps we have taken in the housing sphere already. Working closely, again, with Senator SHELBY, ranking member of the Banking Committee, we have been able to pass FHA reform legislation. As I mentioned, we have been working with the House to resolve our differences on that legislation.

I am committed to working with my colleague from Alabama and the administration to pass a GSE regulatory reform bill so Fannie Mae, Freddie Mac, and the Federal Home Loan Banks can expand their efforts to help people keep their homes.

The committee also held extensive oversight hearings on the problems that plague the housing market, including a hearing on January 31 to look at the foreclosure issue. We held a hearing on the state of the economy and financial markets with Secretary of the Treasury Paulson, Chairman Bernanke, and SEC Chairman Christopher Cox. We held a hearing with Chairman Bernanke last week to receive the semiannual monetary policy report, and we held a hearing yesterday on the state of the banking industry with all the Federal bank regulators. We are holding a second hearing on GSE reform tomorrow, and there will be more hearings to come.

I also believe that S. 2636 would help address the problems we are facing in the housing and mortgage markets in a number of ways by providing counseling services, dealing with bankruptcy reform, improving disclosures, increasing availability of mortgage revenue bonds, and appropriating emergency funds for local communities struggling with these empty properties. Again, I commend Majority Leader REID for his leadership on this issue. I emphasize those ideas I mentioned are, by and large, noncontroversial, but I know there are those who disagree with them, as one might expect. That is not a reason not to try to move forward and allow a debate to occur, amendments to be offered to modify any of these ideas or additional ones people might bring to the table.

But, doing nothing at all is inexcusable. The fact that days go by, despite the growing alarm bells going off about the seriousness of this problem, as I said a week ago, will be indictable by history if we do not to step up and offer some ideas to get this right.

At the end of the day, this legislation by itself is not going to stop foreclosures or restore our communities to economic health. In my view, we need to do more to bring liquidity to the mortgage markets, to help establish value for the subprime securities that are clogging up the system and a way of clearing them out of the markets so capital can once again flow freely. I continue to work on the details of a home ownership preservation entity that makes use of existing platforms, such as FHA or GSEs, to help achieve this result. There are other ideas that I welcome, maybe not this idea, but something similar to it will work. Whatever it is, we ought to bring our practical talents to bear on all this and do something rather than sitting around doing nothing about this issue.

The home ownership preservation entity will facilitate the refinancing of distressed mortgages. This idea was originally proposed by the American Enterprise Institute and the Center for American Progress, two organizations that do not normally come together on economic ideas, but they did on this one; two organizations that approach economic issues from very different philosophical perspectives but that agree more action is needed to stem the housing crisis.

In its general outline, the home ownership preservation entity would capture the discount for which delinquent and near-delinquent loans are trading in the marketplace through a transparent, market-based process and transfer the discounts to the homeowners so more families can stay in their homes.

I would hope such an entity could purchase and restructure these loans in bulk so we could help as many people as possible, but a case-by-case approach is possible as well. I would not rule that out. It would require lenders and investors to recognize losses so there would be no bailout. In my view, this entity should make use of existing institutions, such as FHA and the GSEs, to expedite the process and maximize the process. Every day that goes by without action means more families are going to lose their homes. Obviously, many details need to be fleshed out, I know that, but I am currently drafting legislation for such an idea and plan to introduce it in the coming weeks. The legislation closely mirrors the approach recommended by Federal Reserve Chairman Ben Bernanke in a speech before community lenders he gave yesterday morning in Florida.

Again, I encourage all my colleagues to work with us. I see the Senator from Iowa on the floor, the former chairman of the Finance Committee, the ranking member today. I commend the Finance Committee. They have offered some very sound ideas out of their committee to deal with revenue mortgage bonds and other ideas. Again, those ideas will not solve everything, but I commend their committee for stepping up and saying: Here are a couple things that may restore confidence, increase

optimism, and may save some families from falling into the worst of all situations.

Remember, only 10 percent of these subprime mortgages went to first-time home buyers. Most of them went to people who are making a second mortgage to take care of financial obligations, people who have been in their homes for years building up that equity to take care of future economic difficulties, student loans, health care problems or retirement, and to watch the wealth that accumulated for years disintegrate before their very eyes. Many end up losing the only wealth creator they have had, the long-term financial security for retirement goes out the window, and we are sitting around doing absolutely nothing about it. It is reprehensible. Again, not everyone is in that category.

The Senator from Iowa, Senator GRASSLEY, to his credit, and Senator BAUCUS and their committee have stepped up, and I commend them for it. We are doing our part. What I regret is we cannot find the time for a couple of days to let some of these ideas at least be raised for debate, discussion, and possibly action before we leave.

As we take off for our 2-week break and enjoy our families, travel, and do whatever else we do, in that time there will be people losing their homes in the country, and maybe, just maybe, if we stepped up to the plate, we might have avoided that from happening.

I think it is sad, indeed, that we cannot find the time to do it, unwilling to sit down and engage in what this body was created for—for healthy, responsible debate about actions we ought to be taking to avoid this problem that grows worse by the hour.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, are we in morning business?

The PRESIDING OFFICER. No, we are still on the underlying bill.

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

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

Mr. GRASSLEY. I will speak for a short period of time if anyone else wants the floor.

STONEWALLING ON OVERSIGHT

Mr. GRASSLEY. Mr. President, throughout my career in the Senate, I have taken very seriously our constitutional responsibility of oversight. So I have actively conducted oversight of the executive branch of Government regardless of who controls Congress or who controls the White House.

These issues that I do oversight on are about basic, good Government and accountability in Government. It does not deal with party politics or with ideology. The resistance from the bureaucracy is often fierce. It does not matter whether we have a Republican President or a Democratic President. There is an institutional bias among bureaucracy not to cooperate with Congress in doing our constitutional job of oversight.

Protecting itself is what the bureaucracy does best, and it works overtime to keep embarrassing facts from congressional and public scrutiny. This has gone on too long. It is time for the stonewalling to stop. We have a duty under the Constitution to act as a check on the executive branch, and I take that duty seriously. I know other Members of the Senate do. But too often, we let issues in oversight slide that somehow we do not let slide in legislation. So I am asking my colleagues to ramp it up a little bit, to be more serious in the pursuit of information, but not just in the pursuit, to make sure that information actually comes to us when we do not get the proper response from the administration.

When the agencies I am reviewing get defensive and refuse to respond to my requests, it makes me wonder what they are trying to hide. They act as if the documents in the Government files belong to them. These unelected officials seem to think they alone have the right to decide who gets access to information—information, which, by the way, was probably collected at taxpayers' expense.

I have news for them. I am asking my colleagues to have news for them. Documents in Government files belong to the people, and the elected representatives of the people in our constitutional role of oversight of the executive branch have a right to see them. That right is essential to carry out our oversight function.

Let me summarize a few examples of the kind of stonewalling I face. But before I do that, I would like my colleagues to know this is the first of several trips to the floor that I intend to make about the executive branch and its stonewalling. I am tired of it, and I am going to talk about it until we in the Senate and this Senator gets what we are entitled to under the Constitution. All the kids in America study the checks and balances that are a part of our system of Government, and this is part of the congressional check under the Constitution on the executive branch of Government.

So let me start this evening with what is outstanding and is being held up at the FBI on the one hand, the State Department on the other, and the Department of Homeland Security in another case. Let's look at the use of the jet aircraft that is available for the FBI.

The Government Accountability Office is beginning an audit that I requested on the use of luxury executive jets by the FBI. I asked for the audit after a Washington Post article detailed evidence that the jets were being used for travel by senior FBI officials rather than for the counterterrorism purpose as Congress intended when the jets were provided. However, the FBI Director has refused to commit to providing the flight logs to the Government Accountability Office investigators who are working on this project.

What is wrong with a little bit of public scrutiny about the flight logs on a corporate jet, which the taxpayers have paid for, for the use of Government bureaucracy and Government officials?

Let's go to the Michael German case. For nearly 2 years, despite requests from two Judiciary Committee chairmen, the FBI refused to provide documents in the case of FBI whistleblower Michael German. It took more than a year for the FBI to respond to questions for the record following last year's FBI oversight hearing by the Judiciary Committee. Even when the responses finally came in, most of them ducked and evaded the questions rather than answering them very directly.

The FBI misled the public about the facts in the German case. Even faced with the evidence, the FBI still will not admit that German was right about domestic and international terrorist groups meeting to discuss forming operational ties. Now they are trying to hide that evidence from the public. Don't you think the public ought to know everything there is to know about people who are planning terrorist activities against Americans?

I would like to bring up next exigent letters. The FBI continues to stonewall this committee on requests for documents. For example, last March, we requested internal FBI e-mails on their issuance of exigent letters. These letters were criticized by the Justice Department inspector general as inappropriate ways to obtain phone records without any legal process and said the letters contained false statements, promising that a subpoena would be on the way even when there was no intent to issue such a subpoena. Here we are, then, a whole year later, and the FBI has provided only 15 pages. We know they have been sitting on even more e-mails that should shed light on this controversy. It is enough to make you wonder what they might be trying to hide.

Let us go back to something now 5 years old—the anthrax case. Not 5 years I have been working on it, but it hasn't been too far short of 5 years. There is still no public indication of progress in the investigation of the anthrax attacks. Well, this involved attacks on individual Senators. A former journalist is being fined for failure to disclose her sources, despite press accounts stating the sources were unnamed FBI officials. Whether anyone in the Justice Department has taken any serious steps to find out who in the bureau was leaking case information about Stephen Hatfill to the press is still a mystery. And why should it be? It shouldn't be a mystery. Have they obtained and searched the phone records of their own senior officials to see who was calling the reporters in question? You know, it is mysterious, but the FBI won't say.

Let us go to the Cecilia Woods matter. We have been waiting 2 years for documents in the case of a whistleblower named Cecilia Woods. Woods came to my office to report that she was retaliated against for reporting that her supervisor had an inappropriate intimate relationship with a paid informant and that her supervisor was inexplicably not fired, despite overwhelming evidence of this misconduct. I asked to see the FBI internal investigation to find out why. I still have not received adequate replies.

Let us look at the Goose Creek defendants. It is not only the FBI we have problems with. The Homeland Security and State Departments are stonewalling Congress as well. Last year, I wrote to Secretary Rice—she is an honorable person, Secretary of State, doing well—and we wrote to Secretary Chertoff—he is an honorable person. We wrote about the case of two Florida State University students arrested near Goose Creek, SC, with explosives in their trunk. They are both Egyptian nationals. One of them, Ahmed Mohammed, entered the United States on a student visa. However, I learned he had previously been arrested in Egypt and that he even declared his arrest on his visa form. I wanted a copy of his visa application and other documents to investigate how our screening system for visa applicants could still be so broken 7 years after 9/11. Both the Department of Homeland Security and the State Department have thus far refused to comply. Why would they want to keep information such as this from a Member of the Senate, who has responsibility for appropriating enough money to make sure we can keep terrorists from doing another attack against American citizens?

For today, I have given only a few examples. I am going to come to the floor again to outline more examples where these agencies and other agencies have delayed and delayed and delayed. Months turn into years, and we don't get the information we need. It is time for excuses to stop so Congress can perform its constitutional job of check and balance—in this case check the executive branch of Government—and our constitutional responsibility of oversight of that branch of Government, the executive branch.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. VOINOVICH. Madam President, I ask unanimous consent to speak as in morning business.

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

THE BUDGET

Mr. VOINOVICH. Madam President, as we prepare to consider the budget resolution next week, I rise today to comment on the need for fiscal responsibility and reform of the very financial pillars that support our Government's foundation. Building on a speech I gave last October, and in the tradition of another Member of this body, Senator Fritz Hollings, I hope to regularly provide my colleagues and the American people with updates on our growing national debt. We need to be reminded of the fiscal reality which we find ourselves in. We cannot continue to live in a state of denial.

The Congressional Budget Office projects a $219 billion budget deficit for 2008—that is the fiscal year we are in right now—which does not include the $152 billion economic stimulus package President Bush recently signed into law. With the addition of the economic stimulus bill, the 2008 projected deficit can be assumed to be $371 billion in 2008.

But even that figure hides the true degree to which our official situation has deteriorated, mainly because it uses every dime of the Social Security surplus. I think it is important for our colleagues to understand we are using every dime of the Social Security surplus, as well as surpluses in other trust funds, to hide the true size of the Government's operating deficit.

If you wall off the Social Security surplus so that Congress can't spend it on other programs, as I believe we should, then the Government's operating deficit amounts to $566 billion, over 50 percent more than the reported deficit of $371 billion. In other words, what we do is we hide from the American people the fact that we are borrowing money from ourselves to run our Government, and the only thing we report to them is the public debt, but we don't report to them the Government debt. So when we make these figures available, we will say, oh, the deficit is $371 billion, but the truth of the matter is, when you add in the Social Security surplus, it is $566 billion.

But the annual difference between revenues and outlays is not what is truly threatening our future. It is the cumulative ongoing increase in our national debt that matters. Unfortunately, many in Washington pretend that the debt doesn't even exist. How often do you hear anybody talk about the national debt? They don't.

I think we all remember that in 1992 Ross Perot was out running around America talking about our fiscal irresponsibility and the national debt. At that time, Ross Perot—and this is 1992—predicted that by 2007, the national debt would be $8 trillion. Well, the fact is, he was wrong. It is $1 trillion more. It is $9 trillion.

Now, the interesting thing is that from the beginning of our country to 1992, it is something like 200 years. We have since 1992 increased the debt—doubled it—from what it was. In other words, in the last 15 years, we have increased the debt more than what it was for the first 200 years. Think about that—200 years. And the tragedy of it is that each and every American—man, woman, and child—owes $30,000. That is what we all owe today.

Here are some additional facts: 47½ percent of that privately owned national debt is held by foreign creditors, mostly foreign central banks. That is up from 13.3 percent only 5 years ago. And who are the foreign creditors? The three largest creditors are Japan, China, and the oil exporting countries, or the OPEC nations. Can you imagine how high our interest rates would soar if these countries moved out their investment to somewhere else? In other words, if they would get shaky about where we are in terms of our U.S. economy.

According to the S&P and Moody's, U.S. treasuries will lose their triple-A credit in 2012. In other words, by 2012, our treasuries are going to lose their triple-A rating. That is the best rating you can get. In dollar purchases, I think most of us remember when we could take the American dollar and buy more Canadian dollars. Today, a dollar buys 98 cents of a Canadian dollar. In Europe, it takes $1.52 to buy one Euro.

I have traveled overseas in the last several years, and at one time everybody wanted the American dollar. They called them Reagans. I want a Reagan.

Well, the fact is, today they do not want Reagans, they wanted Euros. Our long-term fiscal situation makes short-term responsible budgeting today even more important. The adoption of a biennial budget for the Federal Government, as I had as Governor of Ohio, would ensure Congress can get its work done on time while also conducting the oversight necessary to ensure that programs and agencies are functioning effectively.

I am hoping we can convince the chairman of the House Budget Committee that this is something that would be great for this country because it is a systemic change that would make a real difference.

I have long championed this issue. I have been a cosponsor of Senator DOMENICI's Biennial Budgeting Act since I came to the Senate in 1999. I have been advocating for its passage nearly 10 years.

In 25 of the last 30 years, Congress has failed to enact all of the appropriations bills by the start of the fiscal year, instead passing omnibus bills and continuing resolutions. Government-by-CR has consequences: Agencies cannot plan for the future, they cannot make hiring decisions, and they cannot sign contracts.

In the next several weeks, I am going to give another speech on the floor of the Senate to remind people about the disruption our not being able to pass budgets on time and the effect continuing resolutions have on inefficient Government and our inability to do the

job the taxpayers want us to do. As I said, we get more waste and inefficiency from the Government by what we are doing. We get lower quality services provided to the people. At the end of the day, we get higher spending and less accountability and oversight of the taxpayers' money. This is irresponsible management, and it has to stop.

Biennial budgeting will ensure Congress does its job and actually looks back to see if the money we have spent is doing what it is supposed to do.

While biennial budgeting can restore order to the appropriations process, it will not solve our long-term entitlement problems or reform our Tax Code. We must enact fundamental tax reform to help make the Tax Code simple, fair, transparent, and economically efficient.

Tax reform is not just a matter of saving taxpayers time and effort; this is about saving taxpayers real money. The Tax Foundation estimates that comprehensive tax reform could save us much as $265 billion in compliance costs associated with preparing our returns.

People come to my office every day, and I ask them: How many of you do your own tax returns? And the answer is most of them—the hands go up. I am an attorney. I used to make out my own return. I used to do them for my clients. I would not touch my tax return today with a 10-foot pole.

Now, if we can straighten this out through good tax reform, fair, easy to understand, even if we did it halfway, it would save almost $160 billion for all of the taxpayers of this country. That is a real tax reduction, and it is something that would not cost the Treasury one dime.

In January 2005, President Bush announced the creation of an all-star panel led by former Senators Mack and Breaux, and that panel spent most of the year engaging the American public to develop proposals to make our Tax Code simpler, more fair, and more conducive to economic growth.

In November 2005, the panel issued its final report. While not perfect in everyone's mind, the panel's two plans provided a starting point for developing tax reform legislation that will represent a huge improvement over the current system. The panel's proposals belong as a key part of the national discussion on fundamental tax reform.

Last January, I introduced the Securing America's Future Economy—or SAFE—Commission Act, legislation that would create a bipartisan commission to look at our Nation's tax and entitlement systems and recommend reforms to put us back on a fiscally sustainable course and ensure the solvency of entitlement programs for future generations. My colleague, Senator ISAKSON, has joined me as a cosponsor.

Democratic Congressman JIM COOPER of Tennessee and Republican FRANK WOLF of Virginia introduced a bipartisan version of the SAFE Commission in the House, where they have 73 cosponsors from both parties. This bipartisan, bicameral group has support from corporate executives, religious leaders, think tanks across the political spectrum, from the Heritage Foundation to the Brookings Institution, and former members from both parties.

On the heels of this, two of my colleagues, the Budget Committee chairman from North Dakota and the ranking member from New Hampshire, recently introduced a bipartisan bill that would create a tax and entitlement reform commission entitled the ''Bipartisan Task Force for Responsible Fiscal Action.'' I signed on as a cosponsor of the Conrad-Gregg proposal. I look forward to working with them to restore fiscal sanity to the U.S. Government.

I would like to comment on the efforts of Divided We Fail, a coalition comprised of the AARP, Business Roundtable, Service Employees Union, and the National Federation of Independent Businesses, for encouraging bipartisan congressional action on this legislation. I want to repeat that. Here is a group. They call themselves Divided We Fail. It is made up of the AARP, the Business Roundtable, and the National Federation of Independent Businesses, which are supporting this. What an interesting array of individuals who think it is time for us to do entitlement and tax reform.

I am encouraged that the Senate Budget Committee is planning to mark up the Bipartisan Task Force for Responsible Fiscal Action, and I urge my colleagues to pass this critical legislation before the close of 2008.

The next President, whoever that may be, should be ready in January 2009 to work with the task force in addressing these critical reform issues. What we are doing now is not working for us. We know that oversight is an important part of our job. But oversight takes time. We must identify programs that are mired in waste, fraud, and abuse.

Another piece of legislation I have introduced, along with Senator CORNYN, is the United States Authorization and Sunset Commission Act. This legislation would create a bipartisan commission to make recommendations to Congress on whether to reauthorize, reorganize, or terminate Federal programs. It would establish a systemic process to review unauthorized programs and agencies and, if applicable, programs that are rated as ''ineffective'' or ''results not demonstrated'' under the program assessment rating tool, which is called PART. Hopefully, the next administration will adopt the criteria the Bush administration has set for PART.

Now, this legislation does not take away from our obligations to make difficult decisions about which programs to continue and those that we can no longer afford to support. What it does is provide an opportunity to work harder and smarter and do more with less.

I believe by establishing this commission to do a thorough examination of programs and agencies using the established criteria, and a transparent reporting process, we can carry out our oversight responsibility more efficiently and effectively.

The legislation will help us distinguish between worthwhile programs and those that have outlived their purpose, are poorly targeted, operate inefficiently, or simply are not producing results taxpayers expect. I used such a commission as Governor of Ohio, and it has helped us work harder and smarter and do more with less.

As we near the end of the Presidential primary season and move into the nominating conventions, the Presidential candidates of both parties should address the critical issue of tax reform, entitlement spending, and budget process reform.

All of the leading Presidential candidates are Members of the Senate. The American electorate should demand that they take a stand on the SAFE Commission and on the Bipartisan Task Force for Responsible Fiscal Action. Voters should demand that Congress pass this bill this year and insist Presidential candidates pledge that upon being elected, they will guarantee that one of their first actions they take as President is to make their appointments to this task force. The Presidential candidates should have recommendations on tax reform, entitlement reform, and biennial budgeting.

But I am afraid that the candidates, whether Democratic or Republican, will avoid these topics, because these challenges require tough choices. Where is Ross Perot? Where is Ross Perot? Voters must ask candidates if they are willing to discuss our country's financial future. If a candidate avoids this topic of responsibility in the campaign, how can voters trust them to be forthright after they are elected?

The former Comptroller General, David Walker, has said:

> The greatest threat to our future is our fiscal irresponsibility.

He added:

> America suffers from a serious case of myopia, or nearsightedness, both in the public sector and in the private sector. We need to start focusing more on the future. We need to start recognizing the realities that we are on an imprudent and unsustainable fiscal path and we need to get started now.

I have three children and seven grandchildren. My wife Janet and I are wondering whether they are going to have the same opportunities we have had, as well as the same standard of living or our quality of life. I question what kind of legacy we are going to leave them as a nation.

The time to act is now. When you look at the numbers, it is self-evident that we must confront our swelling national debt, and we must make a considered bipartisan effort to reform our tax system, slow the growth of entitlement spending, and halt this freight

train that is threatening to crush our kids' and grandkids' future. We owe it to our children and grandchildren to take care of it now. All of us—all of us—should think about them. We have a moral responsibility to the future of this country, our children and our grandchildren, to make sure our legacy is one that we can be proud of, that they will have the same opportunities we had during our lifetime.

Mr. LEAHY. Madam President, I support Senator KOHL's amendment to the Consumer Product Safety Commission, CPSC, Reform Act. This legislation would make it more difficult to prevent public disclosure of information in lawsuits involving a product that poses a serious public heath or safety risk.

Senator KOHL's amendment would promote transparency in court proceedings by prohibiting courts from restricting access to information in civil cases that could affect public health or safety. The amendment would prohibit judges from sealing court records, information obtained through discovery, and certain details of a settlement unless the public health or safety interest is outweighed by a specific and substantial interest in maintaining confidentiality. When issued, protective orders could be no broader than necessary to protect the privacy interest asserted.

The Judiciary Committee heard compelling testimony in a recent hearing about the tragic consequences of court secrecy in cases concerning defective products. We heard from Johnny Bradley, a Navy recruiter who tragically lost his wife in a car wreck that resulted from tread separation on a Cooper tire on his Ford Explorer. Mr. Bradley chose to buy Cooper tires in the wake of the Bridgestone/Firestone recall, believing that they would be safer. It was not until after the tragic death of his wife that he found out during litigation that Cooper had faced numerous similar incidents and had thousands of documents detailing design flaws and defects in the company's tires. The details from as many as 200 lawsuits against Cooper remained covered up through various protective orders, demanded by the tire company. As a result, vital information that could have saved Mr. Bradley's wife was not disclosed to the public. Mr. Bradley's story is just one example of the terrible consequences of court secrecy in cases involving products that pose health and safety risks.

Last December, Senator KOHL introduced the language contained in this amendment as the Sunshine in Litigation Act. I am a cosponsor of Senator KOHL's bill, and I support this amendment. In an environment where the administration is clearly not enforcing product safety regulations, we need to make sure that consumers have better access to information that affects their health and safety.

CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2663, a bill to reform the Consumer Product Safety Commission.

Harry Reid, Charles E. Schumer, Russell D. Feingold, Bernard Sanders, Debbie Stabenow, Patrick J. Leahy, Jon Tester, Christopher J. Dodd, Edward M. Kennedy, Blanche L. Lincoln, Byron L. Dorgan, Richard Durbin, Mark L. Pryor, Jeff Bingaman, Amy Klobuchar, Kent Conrad.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

HONORING REPRESENTATIVE ALDO VAGNOZZI

Mr. LEVIN. Madam President, Representative Aldo Vagnozzi is a beloved figure in Michigan. He is one of those people who talks the talk, walks the walk, and does both to the great benefit of all of those who are fortunate enough to cross his path.

Aldo served in the U.S. Army during World War II as an interpreter in Italy, talking in English and Italian and rising to the rank of sergeant. He took advantage of the GI bill to finish his education at Wayne State University, graduating with a degree in journalism in 1948.

That same year, he married Lois Carl, beginning a 50-year marriage. They would raise two daughters and two sons, seven grandchildren, and two great-grandchildren.

As editor of several publications, including numerous labor newspapers, Aldo reported on and learned about Michigan's social and political environment and the workings of government. This understanding, along with his knack for making friends, would serve him and the State of Michigan well.

Aldo would later serve on the Farmington Hills City Council, the Farmington District School Board, the Farmington Area Parent-Teacher Association, and as the mayor of Farmington Hills. He has been actively involved in numerous community organizations.

In 2002, Aldo ran for election to the Michigan House of Representatives. He personally went door-to-door to 15,000 houses, walking over 900 miles including a 5-day, 70-mile walk from Farmington Hills to Lansing.

Term limits will keep Aldo from continuing his service in the House of Representatives after his current term ends this year, and he will be deeply missed by his colleagues and his constituents.

I salute my friend Aldo Vagnozzi for his years and years of service to Michigan, his indomitable spirit, and his remarkable ability to walk, talk, and sometimes do both while working for the people of Michigan.

I have lost track of the retirement parties I have been to for Aldo Vagnozzi. I am confident his next one won't be his last as he moves on to other endeavors.

NATIONAL PEACE CORPS WEEK

Mr. KYL. Madam President, last week marked the 47th anniversary of the founding of the U.S. Peace Corps. Since its inception in 1961, 190,000 Americans have served in 139 countries around the globe. Currently, 126 Arizonans are Peace Corps volunteers, dedicating their time and hard work to projects in 51 countries.

The Peace Corps is an organization through which many Americans have made meaningful service and have contributed to the well-being of peoples in other lands. A spirit of generosity and volunteerism helped build our Nation; in that same spirit, these Peace Corps volunteers are helping others to build theirs.

Peace Corps volunteers are also ambassadors of American culture—exchanging ideas and bridging cultural divides are critical to helping people understand America's values and message of freedom.

I would like to pass on my thanks and congratulations to those who have served in the Peace Corps, and I applaud their contributions to our Nation and nations abroad.

TRIBUTE TO CHRISTOPHER K. BRADISH

Mr. SPECTER. Madam President, I pay tribute to a very distinguished staffer in my office, Christopher K. Bradish, who serves as my legislative assistant for defense and foreign affairs issues.

Recently, the National Guard Association of the United States recognized Christopher's extraordinary work by presenting him with the Patrick Henry Award—the civilian counterpart to the National Guard Association of the United States Distinguished Service Medal. Created in 1989, the Patrick Henry Award provides recognition to local officials and civic leaders, who in