

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

UNANIMOUS CONSENT REQUEST— S. 510

Mr. REID. Mr. President, America has one of the safest and most abundant food supplies in the world, but it is not perfect. Foodborne illnesses sicken one in every four people every year. Twenty-five percent of people get sick from foodborne illnesses every year. As many as 5,000 Americans die from food poisoning every year.

The bill we are attempting to bring to the floor today is a very simple bill. It will make our food safer. It is a bipartisan bill that was reported out unanimously from the HELP Committee, and there have been negotiations going on for a long time—months and months.

People often think of food poisoning as an upset stomach that goes away in a few hours or maybe a day or two. Sometimes that is all it is, but sometimes it is much worse. I have met with families from Nevada who have been seriously sickened by food they have eaten, people who have been hospitalized for weeks and months and a number of whom came very close to dying. In some of these cases, they will deal with the results of their food poisoning for the rest of their lives.

One of the little girls I met with is named Rylee Gustafson. She is from Henderson, NV. This little girl, when she was 9 years old, was doing what her mom asked her to do: eat her salad. The salad had spinach in it. *E. coli* was in there with the spinach. She got so very sick. I have seen her on a number of occasions. She is a beautiful child, but she is going to be small all of her life because of that illness. She was hospitalized for a long, long time and survived. Three others got *E. coli* from fresh spinach, and they died. She didn't.

I also had the opportunity to meet with the Rivera family in Las Vegas. Linda Rivera also became sick from *E. coli* from cookie dough. Last October, she was in a coma and on life support, and doctors didn't know if she would survive, but she did. She is still recovering. The effects will be with her for the rest of her life. It is food poisoning. It will be a long road back to full health for Linda. We hope she arrives to that.

Last month, there was another big recall. This time, it was eggs contaminated with salmonella. More than 2,000 people have been sickened during this outbreak.

The egg recall and stories such as Rylee's and Linda's and their families and what they went through illustrate the need for food safety legislation. People in Nevada and across the coun-

try are asking for this legislation. They want to know what food they can put on the family's dinner table, what they can pack in their children's lunches, and is it safe.

There is no excuse to wait any longer. Our current food safety system hasn't been updated in almost a century. It is not keeping up with contaminants that cause these problems, and new ones come along all the time. The FDA doesn't have the authority or resources it needs to keep up with the modern advances and expansion in food processing, production, and marketing.

This bill will fix that. The bipartisan bill called the FDA Food Safety Modernization Act would improve the system while minimizing the regulatory burden.

It gives the FDA mandatory recall authority of contaminated foods, sets up a system to allow the FDA to keep track of foods so we can find out where the contaminated food came from and stop it quickly from getting to grocery stores. It strikes the right balance between assuring consumers that food is safe, without overburdening farmers with new regulations. It makes no changes to the current organic program run by the U.S. Department of Agriculture.

Nothing could be more important than using our time here in these waning days before the election to help our constituents. Nothing should be less controversial than keeping them out of harm's way. So let's move to this commonsense bill and pass it. That is why we are here—to do things to help the American people. This would do that.

I also add that the committee has worked very hard. They have negotiated and negotiated and negotiated. They had different versions. They kept moving forward, and finally it was all done. We thought we were going to be able to get this done. But it appears we have one person who doesn't want this bill to pass, and that is unfortunate.

Mr. President, I ask unanimous consent that at a time to be determined by me, following consultation with Senator McConnell, the Senate proceed to the consideration of Calendar No. 247, the FDA Food Safety Modernization Act, S. 510, and that when the bill is considered, it be under the following limitations: that general debate on the bill be limited to 2 hours, equally divided and controlled between Senators HARKIN and ENZI or their designees; that the only amendments in order, other than the committee-reported substitute, be those listed in this agreement, with debate on each of the listed amendments limited to 30 minutes, with the time equally divided and controlled in the usual form; further, that when any of the listed amendments are offered for consideration, the reading of the amendments be considered waived, and the amendments not be subject to division; Harkin-Enzi substitute amendment; Tester amendment regarding small farms and facilities; Harkin-Enzi amendment—I add edi-

torially that these are the chairman and ranking member of the committee, who are both extremely easy to work with and good legislators—

Harkin-Enzi amendment regarding technical and conforming, and that once offered, the technical amendment be considered and agreed to and the motion to reconsider be laid upon the table; Coburn amendment regarding offset for cost of bill; Feinstein amendment regarding BPA; Leahy amendment regarding criminal penalties; that upon disposition of the listed amendments, the use or yielding back of all time, the Harkin-Enzi substitute amendment, as amended, be agreed to; that the committee-reported substitute amendment, as amended, be agreed to; and that the bill, as amended, be read the third time and the Senate then proceed to vote on passage of the bill.

Before the Chair rules, I should have mentioned earlier in my remarks that the person who has been heard on this for months has been Senator DURBIN. This is something he believes in, as he can come to believe in things so intently. I respect the work he has done on this bill, keeping it always at the front of my attention list.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Mr. President, reserving the right to object, and I will not object if the Senator changes the proposed agreement to say that the only amendments in order, other than the committee-reported substitute, will be these three: Harkin-Enzi substitute amendment, which is fully offset and has been agreed to by both managers, which will be agreed to as original text for the purpose of further amendment; the Harkin-Enzi technical amendment; and the Tester amendment in regard to small farms.

The PRESIDING OFFICER. Does the leader so modify his request?

Mr. REID. It is my understanding that my good friend from Oklahoma would have no amendment.

Mr. COBURN. I would not need one because the bill would already be offset.

Mr. REID. What I say to my friend, I think this is something I would like to take a little time—not a lot of time—to talk to my friends, Senators DURBIN, HARKIN, and ENZI, and see if there is something we can do to move this down the ballfield; if not, we can come back again and talk about this.

In light of my friend's request to modify my unanimous consent request and my inability to intelligently respond to it because it is something I had not anticipated, I will be happy to withdraw my request, and I will renew it at a later time if I can come up with something that is more appropriate.

Mr. COBURN. I thank the leader.

I ask unanimous consent to be recognized for 15 minutes.

The PRESIDING OFFICER. The unanimous consent request is withdrawn.

The Senator from Oklahoma is recognized.

Mr. DORGAN. Mr. President, I wonder if the Senator will modify his request so I might be recognized following his 15 minutes.

Mr. COBURN. I have no problem.

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

Mr. COBURN. Mr. President, there is nobody in this country who doesn't want our food to be safe. There is no question, we all rely on the intent that the vast majority of food is safe in this country. There is no question that we have some problems with food safety. But the biggest problem we have is in fixing the symptoms of the problem rather than the problem itself.

I hope America will pay attention to this. Ask yourself why it took the Food and Drug Administration 10 years to give us an egg safety standard and that no oversight committee of either the House or the Senate, through the previous 10 years, held an oversight hearing to ask why it has taken 10 years to get that egg safety standard. It came out 10 days afterwards, coincidentally, to the salmonella infection we have recently seen.

As a practicing physician who has treated Shigella, Salmonella, Yersinia pestis, Campylobacter, and Listeria monocytogenes, which are infectious gastrointestinal bacterial diseases that can come from food, I want it to be safe. What I want more than that is for the organization that is supposed to keep it safe to do its job. The problem with this bill, besides it not being paid for, is it doesn't fix the real problem.

The American public should know, if you go to the grocery store anywhere in this country and buy a pepperoni pizza, the FDA is responsible for food safety. But if you buy a cheese pizza, it is the USDA. How does that make any sense to anybody in America?

What happened on the farms in Iowa, as far as eggs, is the USDA knew there was a problem, but they didn't tell the FDA because the FDA is only responsible for the egg once it gets out of the chicken. Which came first, the chicken or the egg? It was then shipped and was the responsibility of the FDA.

This bill doesn't address any of those problems. As we look to solve a very critical and real problem—and I acknowledge Senator DURBIN's work on this and that of our chairman and ranking member. I had a staff member at every meeting they had raising these same objections. We now have a bill that will cost the American public \$1.5 billion over the next 5 years that doesn't fix the real problem.

The real problem is the lack of focus of the agencies to do their job. It does not eliminate the crossover and lack of consistency. If you buy red meat in the store, you only have to trust one agency. But if you buy an egg, you have to trust two. If you buy a salad or lettuce, you have to trust two. They are not talking to one another. There is nothing in this bill that makes them do that.

What we have done is we have created a lot of new regulations, with a

lot of money, without solving the real problem. The only way we get to the real problem is to have the FDA up here once a week for the next 4 weeks and have the USDA up here once a week for the next 4 weeks, talking about these critical crossover issues.

In the bill, it actually states that nothing in this act or an amendment made by this act shall be construed to alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services. In other words, there is a prohibition to alter the responsibility so we might have safe food—in other words, to hold one agency accountable, rather than two so one can point the finger at the other. We had a House hearing today on the egg recall, and the fact is that is what happened. USDA knew there were problems. But the FDA didn't know there were problems until after somebody got sick.

So we create a high level of additional regulation, a high level of various inspections—and I am not against inspections. I eat salad like the rest of us. Sometimes I am not accused of being human, but, in fact, I consume the same food everybody else does. I don't want to get sick from it. But we can't continue to pass bills that pile on regulations that cost the American people \$1.5 billion and don't fix the real problem. That is the problem. My objection is it is not paid for.

I will hear the objection that it is an authorizing bill. Oh, really. It is just an authorizing bill. So that means there is not any money going to be spent? Then we aren't passing the bill to do what we want it to do. Because if we say we are not responsible for spending another \$1.5 billion, then there is no problem. It is not spending money. If it is not spending money, it is not going to do anything. But if it is spending money, we ought to decrease the priority somewhere else within the waste of the USDA—which there are billions—and within the FDA, which has tons of properties they are not using that could pay for this bill easily. We ought to eliminate the things that are not working.

So I want our food to be safe. As a practicing physician, I know the public health aspects of this bill. But I refuse to go forward when we continue to make the same mistakes that have given us a \$1.4 trillion deficit and have given us lack of control and oversight of the bureaucracies. The biggest thing is, we are not holding anybody accountable for this because we will pass this. Then, the next time there is a food problem, in terms of contaminated food, we will pass something else. In between times, there will not be the first oversight hearing to say: What did we do that didn't work and show us a result that works. Is it efficient, effective, and did it improve the safety of the food? We will not do that. We will just react and pass another bill.

I am through passing bills that don't solve the real problems. I am through

spending the next two generations' money, when we can't make the priority choices. The fact that we have refused to say we are going to eliminate something that is very low priority to be able to have a food safety bill, then that tells the American people we are not up to the task of getting us out of our problems.

I know everybody in this body wants safe food—even me. I am not tired of taking the hits for holding up this bill. We can't be perfect on food, but we can be a whole lot better. This bill can solve some of the problems, but it is not complete. It hasn't looked at the levels it needs to straighten out the bureaucracy on food safety. It hasn't eliminated the overlap. Nobody with any common sense says you will have pizzas in the grocery store, one controlled by the USDA and one by the FDA.

It is clueless. It does not fit. The reason the one that does not have any meat on it is controlled by the FDA is because it has a milk product. It has cheese. But the one that has pepperoni on it has cheese too. How did we get there? Where are we going to establish responsibility and accountability with the agencies that are responsible for food safety?

I look forward to working with the majority leader. I will take a less than perfect bill anytime. But I will not take a bill that is not paid for and does not come out of the hides of our children and grandchildren.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

TRADE

Mr. DORGAN. Mr. President, there is a lot of talk and politics on the floor of the Congress always about something called the American dream. People talk about the American dream. I suppose we reflect on that and think the American dream is about a time the American people have a job that pays well, a job with security, a career with a growth ladder to it, a family, a home, living in a nice community, living on a safe street—the American dream.

We look at the history of this country and discover that beginning early in the last century, we started changing things in America—lifting up people, doing a whole series of things to develop a group of middle-income Americans. We have been enormously successful, perhaps more than any other country in the world. We expanded a middle class.

Now things are changing, and we see that people are upset, nervous, and in some cases angry. We see reports that they worry their children will not have it as good as they have it. They worry about the future.

What is at the root of all of that, and what can we do about all of that? Everyone wants to do well. All of us have hopes and aspirations for ourselves, our children, our families—the American