

And in the late 1800s, the State of North Carolina established the Indian Normal School to train Lumbee teachers for the tribe's school system. This school has been in continuous operation since that time and has grown into the University of North Carolina at Pembroke.

The university is obviously now open to enrollment for all Americans, but continues to serve as an anchor of the Lumbee community.

Despite generations of uninterrupted self-governing, the Lumbee still have not received full recognition by the Federal Government.

Instead, Congress in 1956 enacted the Lumbee Act, which simultaneously recognized the tribe, but denied tribal members access to Federal services.

The Lumbee Recognition Act, which I have introduced with my colleague from North Carolina, Senator BURR, would rectify this longstanding inequity, and provide the Lumbee with the full recognition that they so clearly deserve.

Beyond simple fairness, the issue of Lumbee recognition is critically important to the North Carolina economy, and to counties and communities that have been hardest hit by the recent economic downturn.

Because the 1956 Lumbee Act forbade the Lumbee from pursuing the Federal resources available to every other recognized tribe in the country, the tribe does not have access to critical services through the Bureau of Indian Affairs and Indian Health Service.

The Harvard School of Public Health has found that residents of Robeson County have a lower average life expectancy due to persistent poverty and limited access to affordable health care. Our bill will enable the Lumbee to combat these trends through sustained economic development and quality health services.

It will allow members of the Lumbee tribe to access critical programs through Indian Health Services, and will help treat and prevent chronic illnesses that negatively affect the quality of life in the region.

With a healthier population, and access to Federal programs, the tribe can focus on economic development. Robeson County has an unemployment rate above 12 percent, and the surrounding counties of Scotland, Hoke, Cumberland, Bladen, and Columbia continue to experience unemployment rates that are among the highest in North Carolina.

Economic development programs through the Bureau of Indian Affairs will allow the tribe to create jobs where they are needed most, and will support a true economic recovery in this distressed region.

The Lumbee Recognition Act was introduced in the House by my North Carolina colleague, Congressman MIKE MCINTYRE, who has been a tireless champion for the Lumbee since coming to Congress.

Due largely to Congressman MCINTYRE's efforts, the House has passed

the Lumbee Recognition Act with a strong bipartisan majority twice in the last 3 years.

Here in the Senate, the bill has been approved by the Indian Affairs Committee, and now awaits consideration on the Senate floor.

Some have also argued that the cost of providing BIA and Indian Health services to the Lumbee will be too high, and that Lumbee recognition will draw down funds that are currently going to other tribes. I certainly understand these concerns.

But, I want to be clear, the Lumbee do not want recognition on the backs of other tribes, and this bill will not increase the Federal deficit. This bill simply ensures that the Lumbee are eligible for the same services as their peers. Funding for these services will be subject to future appropriations, and the Lumbee will not dilute support for tribes that currently receive Federal resources.

I want to stress again that this effort is about one thing, providing the recognition that the Lumbee need to improve their quality of life and create jobs in their community.

The tribe is not seeking Federal gaming rights, and, in fact, this legislation explicitly denies the tribe's ability to operate casinos.

Some have also argued that the Lumbee do not need Federal recognition because they can apply for acknowledgement through the Bureau of Indian Affairs administrative process. But let me be clear about this: the Lumbees have been prohibited from being considered by this process.

This is because the Lumbee were unfortunate enough to win partial recognition during a time when the BIA was actively working to terminate longstanding relationships with tribes and roll back Federal services for Native Americans across the country.

The 1956 Lumbee Act expressly precludes the tribe from pursuing Federal acknowledgment through the Bureau of Indian Affairs administrative process. Thus, while the Lumbee were identified in Federal legislation as a tribe more than 50 years ago, existing law strictly limits the group's ability to access vital services otherwise available to a federally designated tribe.

As the Senate Indian Affairs Committee has noted, Congress placed only one other Indian tribe in a similar position. In 1965, the Tiwa Indians of Texas won recognition in Congress, but were prohibited from pursuing BIA and other Federal services.

Congress recognized this problem, and in 1987 passed legislation granting full recognition to the tribe. This has left the Lumbee as the only tribe in America that is at once recognized by the Federal Government and forbidden from accessing critical programs that are available to every other tribe in the country.

The administration has recognized this basic inequity, and at a House hearing on the bill last year, George

Skibine, Deputy Assistant Secretary for Policy and Economic Development for Indian Affairs, testified that, "There are rare circumstances when Congress should intervene and recognize a tribal group, and the case of the Lumbee Indians is one such rare case."

I could not agree more. I urge my colleagues to pass this important legislation with no further delay.

Lumbee Chairman Purnell Swett is here in the Senate Gallery, and has been meeting with a number of Senators to discuss this effort. I thank him for joining us, and encourage my colleagues to take time to hear from him how vital this bill is for his community and his people.

Federal recognition is about more than Federal resources and creating economic development opportunities for this community. It is about tribal identity.

The Lumbee have fought for the recognition they deserve for over 100 years. Truly, this recognition is long overdue.

We must ensure the Lumbee are no longer treated as a second-class tribe, and I ask my colleagues to join me in supporting the Lumbee Recognition Act.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I come to the floor this afternoon, in the presence of Senator COBURN of Oklahoma and Senator HARKIN of Iowa, to discuss an issue I have worked on literally for my entire congressional career—food safety. This is an issue which has haunted me since my days in the House of Representatives when I received a letter from a woman in Chicago, far outside of my central Illinois congressional district, who told me the story of her 6-year-old son Alex. She brought home a pound of hamburger from the local grocery store and fed it to her son, and he was dead 3 days later from food contamination that led to a very painful, horrible death which has haunted her to this day. Her name is Nancy Donnelly. She has focused her life on making food safety laws better in America. I have joined her in that effort. I was inspired by her tragedy and by the many people who came to me and explained how they had been through similar circumstances.

For almost 20 years now, I have been taking on this issue. I have tried from the very beginning to bring to the attention of Members of Congress the fact that there are at least 12 different

food safety agencies in our Federal Government. When we look to the origin of these, the U.S. Department of Agriculture got started because Upton Sinclair wrote "The Jungle," which told about the horrible circumstances in the packinghouses of Chicago. That novel led Congress to pass the first food safety law with the U.S. Department of Agriculture as the lead. Over the years, the Food and Drug Administration expanded its role in this area, and many other agencies did as well.

I have always argued that we need better coordination. In fact, we need one single food safety agency that uses science and tries to reach new efficiencies by avoiding overlap in deciding what is the safest approach to food in America. I haven't had much luck. Rarely do I find a bipartisan cosponsor, find anybody who will join me in this effort. But I understand the Senator from Oklahoma said yesterday he is interested in it, and I welcome him to be part of this conversation. I want to see the day when we have a single food safety agency that gets the job done in a professional way.

What do we do before then? Knowing that this will take some time, and it has taken time already, what do we do? I think we should clearly look at the weaknesses in the current food safety system and address them directly.

If I said to the Presiding Officer, before he was in the Senate and before he became conversant with most of the laws of the land, if I asked, do you believe there is a Federal law which allows the Federal Government a mandatory recall of contaminated, deadly food products on the shelves of America, he would say, of course, that is why we have food safety agencies. The answer is no, there is no such law. The government has no power to recall deadly and contaminated food products on shelves across America—amazing, but it is a fact. This bill we are trying to call before the Senate will give the government the power to recall deadly food. That is a major step forward. If we did nothing else in this bill, it is a major step forward.

The bill also gives the Food and Drug Administration the authority to expand their inspections, not just here in the United States, where there is plenty to be done—we are seeing an FDA inspector once a year as a novelty—but overseas, where there is literally no inspection. As foods come in from all over the world, we don't know the standards they are using. Unfortunately, our people are vulnerable as a result.

Should we have mandatory recall? Should we have more inspections? Absolutely. I think that is a must to make sure we don't run into the tragedies we have seen repeated over and over again. Hardly a week goes by that there isn't some new food tragedy—peanut butter, spinach, tomatoes, eggs. People get sick—and some die—week after week, month after month. So the question is, Will we do something about it?

I went to Senator HARKIN, chairman of the committee, and asked him to lead, with Senator ENZI, his Republican counterpart, in a reform bill that will make this system better, really fill in some of the gaps, move us forward. He took that challenge and handled it very professionally and very quickly. In fact, we have 19 Senators, Democrats and Republicans, in a bipartisan effort, after hearings in his committee, after markup in his committee, bringing this bill to the floor.

For the first time since I have been engaged in this debate, we have the support not only of consumer groups, which we would expect, we have the support of the industry—the food processors, the grocery manufacturers. Why? Because they understand that once we lose confidence in our food supply, it hurts them as businesspeople.

So here we are, a moment, an opportunity we have worked for for years—literally years—a bill we have been working on for months in a bipartisan fashion, and all we are asking for is a chance to bring it to the floor. That is all. Bring it to the floor, entertain amendments, debate it, deliberate, and vote. People who come and visit Washington think that is what the Senate does, right? An important issue, a life-and-death issue for families, something we all care about when we put food on the table—thank goodness the Senate is finally going to take up something that affects their lives, and it is going to do it in a professional, bipartisan way. Thank goodness all the games are over.

No. Welcome to the U.S. Senate. When we bring the matter to the floor and ask for a chance to debate and deliberate it, 1 Senator, who is on the floor today, says no—not 99 Senators, 1 Senator says no.

We said to the Senator: If you object to the bill, you can vote against it.

He said: Not good enough.

We said to the Senator: If you want to offer an amendment to this bill, offer an amendment.

Not good enough. He says: No, I don't want the Senate to take up this bill and debate it. I don't want them to vote on this bill. I want this bill to die right now. I don't want it to go forward.

From my point of view, we are all entitled to our opinion. We are all entitled to our political position. In the Senate, one is entitled to speak their mind. In the Senate, one is entitled to debate and deliberate, to offer an amendment and have a vote. But at the end of the day, if there is any fairness in this body, the majority will decide what goes forward.

In this case, one Senator has said no. Nineteen Senators, Democrats and Republicans together, are not enough, putting this together after the years of work that have gone into it. It is not enough. That troubles me because I think this issue is a life-or-death issue. This morning's Washington Post

talked about what has happened to unsuspecting people across America who ate the contaminated eggs. Think about it. Eggs are supposed to be wholesome and nutritious and good for you, but thousands of these eggs contaminated with salmonella, sold across America, have made people sick, and for some their lives will be compromised forever.

I would think that when we consider the medical problems which will be created if we stop this debate, when we think of the victims across America of food contamination, for goodness' sake, shouldn't we err on the side of moving forward? Who argues against a mandatory recall of contaminated food from shelves across America? Who argues against giving the Food and Drug Administration the power to move forward to make sure there are more inspections done on a scientific basis? That, to me, is basic.

When a customer goes into a store across America, they assume something: They assume the government is involved in this decision, that somebody, somewhere took a look at what they are about to buy and said it is safe to sell it in America. I have to tell you, in most instances, they are mistaken. The inspections are not frequent enough. The inspections, sadly, do not take place in many instances.

Well, the argument on the other side is, come on, Senator, everybody can dream up a new way to spend money. You have dreamed up a new way to spend money. You want to have more inspections. You want to send inspectors out to make sure our food is safe. Well, great. I can think up a way to spend money too. The argument is, if you are going to spend money and add to our deficit, the answer is no, no matter what you say, or you have to come up with some way to pay for it now.

What I have to remind the Senator from Oklahoma—and he and I have had this debate over and over—this is an authorization bill. It does not spend money. In order to spend the money, you have to go through an appropriations bill that actually spends it. In other words, you are given a finite amount of money and you decide: What is a priority? I think this is a priority. Something else may not be funded. This should be funded. It is an authorization bill.

What about the cost of this bill? How do we put the cost of this bill in comparison to some other issues? Modernizing the food safety system of America costs us \$280 million a year. That is less than \$1 for every American. Providing tax cuts for the wealthiest people in America: \$400 billion a year. That is Senator MCCONNELL's plan to extend the Bush tax cuts for the wealthy. So \$400 billion unpaid for, adding to the deficit, versus \$280 million to protect families from contaminated food.

Let's take a look at what happens when you do not spend the money and

have the inspection. In 2006, an E. coli outbreak cost spinach growers across America \$350 million in 1 year. That means that industry lost \$70 million more than the entire cost of food safety inspection in the bill for 1 year. Would those growers rather have seen people not be victimized by a contaminated product and not seen their own operations destroyed for an inspection? I think they would have. They are not the only ones. In 2008, the salmonella outbreak linked first to tomatoes and then to peppers cost the Florida tomato industry over \$500 million. In a single year, tomato and pepper growers lost nearly twice as much as this food safety bill costs. Doing nothing is not only cruel to the unsuspecting customers and consumers across America, it is devastating to the food industry. That is why they support this bill. They understand they would rather be subject to inspection so the consumers have more confidence in their product and they do not run the risk of having their livelihood devastated by a food contamination outbreak.

The cost of doing nothing can also be measured in lost quality of life. Each year, 76 million Americans suffer from a preventable foodborne illness. For some of them, it is an upset stomach or diarrhea, but for others it is more; 325,000 people are hospitalized, accumulating large medical bills, each year, and 5,000 people pay for food contamination with their lives. That is the reality of what they face.

I know I take this bill personally because of the fact that I have come to know some of the people who are involved in food contamination. I want to show you the photos of just two people before I propound a unanimous consent request and turn this over to my colleague from Iowa.

Marry Ann, shown in this photograph I have in the Chamber—this lovely lady—is an 80-year-old grandmother who contracted E. coli from spinach just before she left to meet with her family at the park for a Labor Day gathering. She is from Mendota, IL, a small town near my hometown. She is alive today, thank God, but the kidney failure, violent vomiting, and uncontrollable diarrhea are constant reminders that her quality of life will never be the same. She is 80 years old, and she struggles now to get by every day because of food contamination. She is standing with us in this fight to improve our food safety system so that no one else has to endure what she has been through.

Now I would like to introduce you to a young man. I hope I do not mispronounce the name of his hometown. Senator COBURN will know it better than I. His name is Richard, and he is from Owasso, OK. At age 15, Richard joined the unfortunate ranks of foodborne illness victims. After he returned home from a camping trip, Richard began experiencing headaches, diarrhea, and his urine turned black. He was later diagnosed with E. coli

contamination. For 8 years, Richard has endured pain and suffering because of it—migraine headaches, dry heaving, high blood pressure, and, after a series of dialysis treatments, kidney failure—kidney failure. Last year, Richard was having a kidney transplant while the House was debating and passing the food safety bill.

Richard and his mother Christine are following this food safety debate because of their own family experience. They are following it from Richard's hospital room. Days ago, Richard was moved to the intensive care unit due to swelling in his brain and his inability to speak.

On the day the Senator from Oklahoma was informing the press of his objections to the food safety bill, Christine, Richard's mom, was making an airline reservation and making her way back to her son's hospital bed in Oklahoma. When Christine learned that her home State Senator was blocking food safety reform because of the cost, she immediately thought about the hundreds of thousands of dollars her middle-class family has spent on Richard's medical care.

On behalf of her son, Christine stands with 89 percent of the American people who want Senator COBURN to stop blocking this food safety bill. She said she has a simple question:

As the Senate is debating on S 510, I am taking an emergency flight to the hospital to be with my son. He's been admitted again with complications stemming from his E. coli infection. We can delay this legislation no more.

She writes:

Something must be done. The time is now. How many more victims must there be?

That is the critical question.

Is this a perfect bill? As I have said before and will say again, the only perfect legislation that I am aware of was tapped out on stone tablets and carried down a mountain by "Senator Moses." We can improve this bill. We can entertain amendments that may improve this bill. But to stop us in our tracks and tell us we cannot even debate it or deliberate it while the Senate sits empty doing nothing is inexcusable while people are suffering and dying across America.

We have a bill that has the support of the industry and the consumers. We have come forward to this point. We cannot turn back.

That is why, Mr. President, I ask unanimous consent that, at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 247, S. 510, the FDA Food Safety Modernization Act, 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 agree-

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

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Mr. President, I object and ask unanimous consent to be recognized after the majority whip finishes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

And the objection is heard.

Mr. DURBIN. Mr. President, it is my understanding that Senator COBURN actually sees, as I do, the need for us to coordinate the food safety agencies and is proposing that we ask for a study for that purpose. I wish to join him in that effort. Asking for a study is a good thing, but while a study is underway and we are waiting for the report, people will be dying from food contamination.

I hope we can engage in this study and move toward a single food safety agency. I am with him all the way. Let's save money in the process. And I think we can. We can come up with a professional, good agency in a bipartisan way. But unless and until that is done, we have to make reference to the obvious; that is, the current system is not safe enough for American families. As good as our food supply may be in America, we can do better. To stop now, after all of this work has been put into this effort, with the objection of only one Senator, strikes me as unfair—unfair to the people across America who desperately need our protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, what is unfair in this country is the fact that we label bills to fix things and fix a lot of the symptoms, but we do not fix the underlying problem. We are going to spend several hundred million dollars

when the bill ultimately goes through, and much of it will be well applied, but the underlying problem will never be fixed.

The Senator mentioned we have 12 agencies—12 agencies across this government—responsible for food safety. What I would contend to my colleagues is that the same amount of money we spend now, if we spent it wisely, would give us a much safer food supply.

All through the course of this debate, I have had staff at every meeting raising the consistent objections I have raised. At every meeting, one of my staffers has been there. They were ignored. I am not stopping this bill because it was ignored; I am stopping the bill because I do not think we are fixing the true underlying problem.

Let me give you an example. Here is what Dr. Hamburg said. This is on the egg rule.

We believe that had these rules been in place at an earlier time it would have very likely enabled us to identify the problems on this farm before this kind of outbreak occurred.

How long did it take them to develop the rule? Ten years. It started with President Clinton asking that this be addressed. Robert Reich went and inspected and said it is unbelievable what has happened. And what happened is, he initiated it with the FDA, the start. Somebody ought to ask the question and hold accountable FDA taking 10 years to get a rule so we have safe eggs in this country. We did not ask that question. So the next thing that comes up after we pass a bill like this is that we are going to see another problem because we are not fixing the core problem.

Let me read to you from the oversight hearings the Senate has conducted on food safety. I think I have them here. There was a full committee hearing on October 22, 2009, "Keeping American Families Safe, Reforming the Food System." There was a full committee hearing developing a comprehensive response to food safety on December 4, 2007. And there was a Senate Appropriations Committee oversight hearing on Hallmark/Westland meat recall—a special hearing. There was not one hearing that said: FDA, what are you doing, how are you doing it, and why are you doing it that way? There was not one hearing that said: USDA, why in the world can't you get your act together? We did not do the structural oversight that is necessary to fix these problems.

I am not denying that this bill will have some positive effect. But it will not solve the problem. So we will pass a bill, and then we will still have contaminated food, but we will have answered the questions of late. We can't keep running government that way.

I appreciate sincerely Senator DURBIN's efforts. We come from vastly different backgrounds. I don't question his integrity, his desire, or his goodwill to try to solve the problem. As he told me on the phone, I can't be involved in

everything, so, therefore, I shouldn't participate in this. That is the implication. I am not saying the Senator said that, but the implication is, you can't be involved so, therefore, you can't know enough to be involved. Well, having run a \$70 million-a-year business in the health care field, having managed hundreds upon hundreds upon hundreds of people, and being trained as a physician in practice for 25 years, I know a heck of a lot about food safety. What I do know is if you don't fix the problems in the underlying agencies that are responsible for food safety, it doesn't matter how many bills we bring up.

There is a prohibition in this bill. Section 403, Jurisdiction Authorities:

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 under applicable statutes, regulations, or agreements regarding the products eligible for voluntary inspection under this agreement.

We actually are doing something wrong here—not just right. We are telling them they can't shift stuff around to solve the problem. Not only do we not do the vigorous oversight that is required to actually fix the real problems; we put up a roadblock, a silo back up and say, By the way, you can't do any of this together. That is in the bill.

What has happened? The FDA Commissioner says had we put this rule out, this probably wouldn't have happened on the egg recall, salmonella enteritis. It wouldn't have happened. Where is the answer from the FDA? Where is the oversight hearing of the FDA on why it took them 10, almost 11 years to get a rule out on egg safety? That is my core objection.

I want us to solve the problems. I don't have any problem with the issues about foreign inspection. Mandatory recall I don't have a problem with, although we have never had a food supplier in this country that has not recalled when asked to recall. So having a mandatory authority is a false claim because nobody has ever not recalled when they were asked to, because it is in their best interests to recall.

My problems are characterized by this chart, when you think about the egg recall. The USDA knew what was happening on the farms in Iowa but said nothing to the FDA. The FDA didn't look to see, and Congress didn't want to hear about it. So we have a bill before us that does a lot of good things, but it doesn't fix the real problem. That is my basic complaint. We are treating the symptoms of the disease. My colleagues have heard my analogy before, but I am going to make it again. If you come in to see me, as a practicing physician, and you have fever and chills and cough and body aches and are short of breath, and I give you something to take care of your fever and chills; I give you something to suppress your cough; I actu-

ally make you feel better, but I don't diagnosis the fact that there is a pneumonia in your lung, you are going to get better for a little while and then you are going to get really sick. Then you come back. I have treated your symptoms the first time, and then I treat your pneumonia and I get you over that. Then I don't follow up after that to see what the real cause of the pneumonia is, which was a little tumor in your lung that caused blockage which caused the pneumonia. If I continue to treat symptoms, all I do is delay the time in which we get to the final fix for your problem. My analogy is I think that is what we are doing. I believe we have not been thorough enough. The intentions are great, but I don't think we have been thorough enough. I understand foodborne illnesses. I have treated a lot of them. I have had a lot of them. When I was in Iraq for 30 days, I had it for most of the time I was there.

The other question this has raised is we can't keep doing this. We can't afford to keep doing this. We have more than enough money at the USDA and the FDA to do everything you want to do in this bill—more than enough. That is one of the things the American people are asking of us. We are going to make this point on a food safety bill, and I am fine with the heat I will take from the groups and the press on it, because I think the underlying principle is more important. It is easy to pass a bill that looks as if it does something. And even if it does something, if it passed on what we are going to spend when we don't address what we are spending wisely, we will never get out of the jam we put our kids in.

To Senator DURBIN's point: Yes, it is an authorization bill. The Senator from Illinois and Senator HARKIN, as well as every member of my caucus and every member of your caucus, get a letter the first of every Congress saying I would absolutely object to any bill that increases authorizations in this Congress that are not offset with a reduction in less important, less priority items. I offered to do that to the majority leader. I offered to give that to him 2½ weeks ago. He hung up the phone on me; wouldn't even say goodbye. I said, I will give you a list. How about the \$500 million the U.S. Department of Agriculture pays out to dead farmers in crop payments—to dead farmers who have been dead 6, 7, 8 years, still paying crop payments. We have plenty of money to pay for it. We don't want to do the hard work of getting rid of the things we should.

What America is screaming for now is they want food safety, but they want security for their kids as well. If we continue this bad habit of ignoring the actual idea that there is a limitation on how much we can spend, we will never solve any of the critical problems, whether we have clean food or not.

I do honor my two colleagues who are in the Chamber. They are men of great

intent, honest intent, caring hearts, but I disagree on how we have gone about this. This isn't the first time I have heard the wonderful eloquence of Senator DURBIN. He is great at what he says and how he says it. He is a very bright man. He makes his case well. But there are important things in this country that we are ignoring, and this bill is an example of it.

Why in the world won't we fix the real problem? Why won't we ask—you know, the one thing that should happen—it amazes me. There is not a hearing scheduled on why it took 10 years to have an egg safety standard. We have allowed this. We have allowed it.

The other point I wish to make is, yes, the money has to get appropriated. I agree with that. But we are going to spend this money. Senator DURBIN, we are going to spend it, aren't we?

Mr. DURBIN. Not unless we appropriate it.

Mr. COBURN. Does the Senator have every intent to make sure it is appropriated?

Mr. DURBIN. If we can find the money.

Mr. COBURN. So wait a minute. If we can find the money.

Mr. DURBIN. If we can find the money.

Mr. COBURN. The earlier statements of this will solve the problem, but yet we are not going to find the money. It should be 100 percent that we are going to find the money to do this.

Mr. DURBIN. Will the Senator yield for a question?

Mr. COBURN. I want to continue my point, if you don't mind. You have always been courteous to me and I will be courteous to you, but I wish to continue for a few minutes and then I will give my colleague the chance to respond.

Mr. DURBIN. I would say to the Senator, I was going to ask him a question.

Mr. COBURN. I will allow that in a few minutes.

If this bill is that important, and the majority whip says we will fund it if we can find the money, rather than saying we are going to fund this because this is a priority—and he has the power to make sure that gets done. Don't let anybody kid you. If he wants this bill funded, he can get it funded. So the point is, either it is going to be funded and it is going to get spent and the argument about authorizations is bogus or there is going to be a real question on whether it is going to get funded. If there is a real question about whether it is going to get funded, then the importance of the issue isn't nearly as great as we have explained it to be, which goes back to an argument we have had for the 6 years I have been here.

I understand you don't agree. I am a hardheaded guy from Oklahoma who actually believes we ought to make hard choices, we ought to downsize the government rather than grow it; and when we have an issue such as food

safety, what we ought to do is hold accountable the agencies—let me say it again—we ought to hold accountable the agencies, because I am not sure that we don't have enough rules now. What I think we have is not enough effectiveness of the agencies and the dollars they spend. With the exception of foreign inspections, which I fully support—I fully support—anybody who wants to sell food in this country ought to pay for the inspections and we ought to be able to certify that it is safe. I have no problem with that. There are a lot of components of this bill I agree with. But I refuse to agree to a unanimous consent request until we start looking at the real problems underlying not just the FDA and USDA but the Pentagon, Health and Human Services, the Department of Justice. The waste in this government and our refusal to look at that waste and eliminate it so we can do good things is one of the reasons—not the only reason, one of the reasons—we find ourselves \$13.4 trillion in debt.

Ideally, how would we go about this? Because one of the complaints is: COBURN, you stop things in their tracks. How would I have done it differently? So I think I owe you an explanation. First of all, the tomatoes were never contaminated. They were thought to be contaminated. It was the jalapenos. So we, our agencies, identified falsely a food that wasn't contaminated. So the agency is responsible for the \$350 million cost for the tomatoes. That is a very important point. The incompetency of the agency cost \$350 million, which is a very different story than my colleague from Illinois talked about. It was jalapeno peppers.

So how should we go about this? Before we do one other thing on food safety, every one of those agencies ought to know we are looking over their backs all the time. That is the first thing. We should have routine oversight hearings on the appropriate committees three to four times a year. The second thing we ought to do is we ought to say, GAO, we want to know everybody who has anything to do with the quality of food in this country as far as a Federal agency and we want to know their line responsibilities, we want to know their authorities, we want to know X, Y, and Z, and their effectiveness. Because a GAO study at the Department of Agriculture, as well as the FDA, says they are incompetent at most of this stuff. I will be happy to give my colleagues the quotes. They lack the competency to carry out—how else do you explain that the FDA cost the State of Florida \$350 million by falsely claiming that tomatoes weren't any good? That is incompetence. There is no excuse for it. There was no hearing held to hold them accountable. It is ignored in this bill.

So how would we go about it? We would find out everybody who has anything to do with food safety. Then we would do what Senator DURBIN wants to do. We would eliminate the duplica-

tion. We would make one line authority: This agency is responsible for all the food safety in this country. That is a marvelous goal, Senator DURBIN. This bill delays that happening. He is on to the right thing.

We need to get there, I agree. But when you go to Piggly Wiggly or Homeland, as we have in Oklahoma, and you go to the freezer section and buy a pizza for Friday night when—in Oklahoma, you are going to play dominos after high school football is over. If you buy a cheese pizza, the Department of Agriculture is responsible for that. But if you buy a pepperoni pizza, it is the FDA. I may have them reversed. I do have them reversed. The FDA is responsible for cheese pizzas. How does that make sense?

It is a symptom of the disease in Washington. First of all, it is stupid. Second of all, it is inefficient. Third of all, it guarantees the two agencies are not going to be talking to each other.

The Food and Drug Administration and the USDA have—I think my number is correct; I may be wrong—187 agreements for how they work across the field. Except you know what happened with regard to the egg situation. Nobody paid attention to the agreements. We have the rules. USDA did not tell the FDA. Then, finally, we have an egg producer—the State of Iowa has done tons of stuff to say this guy's quality is poor. Did USDA do anything about it? No. Did the FDA do anything about it? No.

USDA knew there was a problem. It did not need any more inspections. They knew there was a problem. They did not communicate it to the FDA as per their protocol.

What do we have going on here? We have a mess. As well-intentioned as this bill is and as hard as the Senators have worked on it on both sides of the aisle, it does not fix the cancer in the lung that caused the pneumonia that caused the fever, cough, chills, and malaise of the patient. Until we start drilling down to get to the real problems, the real issues of food safety, we are going to spend a lot of money. We are going to create a whole lot more regulations. We are going to have another 200-plus page bill.

What we ought to say is, time out. Let's do some things. Let's have a one-page bill that can pass by UC today that says we are going to do safety inspections on foreign foods. Done. We can do it. That takes care of our foreign food.

A good portion of our seafood is imported. It is farm raised. It is important. We can do that tomorrow. We can have sanctions and penalties and criminal penalties for Federal bureaucrats who do not follow the rules of their own agencies.

Everything was in place on the egg situation. We did not execute. We did not carry the ball down the field. Here is what we know about the DeCoster Egg Farms. They are a habitual violator. They have had eight known run-

ins or citations from State and Federal regulators. They were designated by the State of Iowa as a "habitual violator." Robert Reich called the state of the farms simply atrocious.

USDA inspections—I have a copy of the inspections—routinely noted unsafe and unsanitary conditions without communicating any of those concerns to the FDA.

What we had was a failure to execute. It was seen. It was known. What we had in place did not work. But this bill does not fix that. It does not fix that.

I have treated a lot of people with toxic *e. coli* in my life. That is what causes kidney failure. *Salmonella* hardly ever does that. It is not a fun disease to have. There is nothing in this bill that says we are going to prioritize pathogens. You see, *e. coli*, compared to all the rest of the pathogens, is much more important in terms of hospitalization, death, morbidity, and mortality. So any food safety bill ought to work on the most ravaging problem first, not treat them all the same. *Yersinia pestis*, *shigella*, and *salmonella* cause enteritis, that is true. Rarely will you have long-term effects from those. But from toxic *e. coli*, it is a whole different actor.

We ought to prioritize what we do in food safety through the food safety problems that cause the major problems. We do not do that.

I know I have disappointed my colleague from Illinois. I know he has worked hard on this bill. We have some very stark philosophical differences about how to make the government work better. I hope through the next few years to convince him more often than not to go in a different direction.

I know Senator HARKIN's heart is one of the softest and best in our body. If somebody has a problem, I don't care what it is, he is interested in it. For disappointing my colleague, I sincerely apologize. For standing on my principles and what I believe, I do not. I do not see a great future for our country if we do not start changing the way we do things, whether it is drilling down and looking at what the real problems are with the agencies and doing the appropriate oversight and taking priorities and getting rid of things that do not work and making things that do work work better.

I worry about my grandkids, and I worry about all of our grandkids. With them at \$43,702 today per man, woman, and child in this country, we cannot do it anymore. I am not going to do it anymore. I will be as compliant as I can be living within my principles, but I am just not going there. For that, I apologize. I apologize for disappointing my colleagues, but I sincerely regret we could not have solved some of these problems along the way.

I yield the floor and yield to the Senator for a question, if he wishes.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Illinois.

Mr. DURBIN. Madam President, I am going to yield to the Senator from Iowa in just a moment.

I would like to offer to the Senator from Oklahoma a compromise and tell him I have spent much of the time he was speaking reading S. 3832, a one-page bill, which calls for a plan within 60 days from USDA and FDA and within 1 year a joint report from Congress, a GAO report. I am going to join him on this issue.

What I would like to suggest is the following: Because I am as committed as he is to food safety, I would like to amend my request and make this a Coburn-Durbin amendment which will be offered, which I guarantee I will work night and day to get passed, so we address the overall issue. In the meantime, while we are spending 6 months or a year moving toward this goal, let's at least make the current system as safe as we can. Let's do everything we can to protect the people of this Nation.

The Senator does not have to apologize to me. I will be here tomorrow. But this poor man in ICU in Oklahoma may not be, and other people like him.

What I suggest to him is, I will join in a compromise. I will add an amendment to the bill and cosponsor his language in S. 3832 and ask my colleagues on this side of the aisle—all of them—to join us in voting for them if the Senator from Oklahoma will remove his objection so we can go forward on this important historic debate.

Mr. COBURN. Madam President, I appreciate the Senator's offer, but I cannot do that. I also want him to know that this bill is not going to solve the problem of that gentleman from Owasso, OK. This bill is not going to solve that situation because we are not fixing the real problem.

Mr. DURBIN. Madam President, I must reclaim my time and say to the Senator from Oklahoma, he cannot tell me how badly he feels for these victims and then stop the bill with which we are trying to protect them.

The Senator cannot tell me he wants reform and then reject it. The bottom line is the description he has given is about the USDA, and this bill is not about that agency. It is about the FDA.

I say to the Senator from Oklahoma, I agree with him. I want to help him. But if he will not allow us to bring to the floor a bill on which we worked for a year and a half, if he will not offer an amendment along the lines suggested, then all he is doing is saying no.

If he is saying we cannot afford safe food in America, I disagree. I think we can afford it, and I am willing to cut other spending to pay for it. That is the only way it can get through the appropriations process.

But to just say no after all the work that has gone into it because he does not happen to like it—if the Senator from Oklahoma does not like it, offer his amendment. If it is a good idea, the Senate will accept it. If he does not have an amendment, then he is like me on Monday night watching football when the Bears play the Packers deciding what Jay Cutler should be doing as

quarterback. It is pretty easy from that armchair.

I want the Senator from Oklahoma to come down to the field and offer his amendment, be part of the conversation. Don't just stand there and say no. As he says no, people will suffer and some will die. I think that is fundamentally unfair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, again, if I truly felt this bill was going to solve those problems, I would be out here supporting it. I do not think so. We have an inherent disagreement.

The Senator from Illinois can file a cloture motion any time he wants to proceed to this bill. He can file it today, and we can have a cloture vote next week—we are not going to be doing anything next week anyway—and we can go to the bill. File the cloture motion, if that is how he feels about the bill and he thinks I am dead wrong. File the cloture motion, get the votes, and do it.

What we are hearing is we want it to pass in a short period of time so there cannot be the real debate there needs to be on the problems in this country on food safety. That is what we just heard.

We have been talking about this issue. We could have been here tomorrow debating this bill. The fact is, they did not file a cloture motion. They filed cloture motions 179 other times this Congress, more than any other Congress in the history, and the vast majority of them less than 24 hours after the bill was introduced.

If the Senator really wants to have the debate, put the bill on the floor, file cloture, and have the debate. I will debate this for 30 hours.

Washington is great about saying they are fixing things. They are great about fixing things because they fix the symptoms, not the real disease. That is the problem with this bill. It does not drill down and fix the real disease.

My hope is that we can fix the real disease and that we will have the legitimate, tough hearings on why and how and what is needed to be changed in the agencies, not more regulations, not more money, but holding the agencies accountable, which we have not done. That is how Washington works. If there is a problem, we do not look at what we are doing already, we just create an answer for what we think needs to be done rather than holding people accountable. That is why we have a \$3.9 trillion budget. That is why our kids are bankrupt or getting ready to be because we continue to make the same mistakes.

I do not apologize for my principles on this issue. If, in fact, we will ever get to where we fix the real problems in the Congress, my colleague will find me as docile and compliant as any other Member of the body. But do not

tell me to treat pneumonia with an aspirin because that is exactly what we are doing with this bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, first of all, to my friend from Oklahoma before he leaves the floor, I thank him for his kind words. I appreciate that very much. He is a very valuable member of our committee. We have done work together in the past.

I say to my friend from Oklahoma, I agree with a lot of what he said. This bill is not going to solve all our problems. It may not solve a majority of our problems. It will solve some of them.

The Senator is right. We read about these crazy pizza things—Agriculture has one, FDA has the others. It is a crazy quilt work of things.

I say to my friend from Oklahoma, I am about as frustrated as you are. I have been chairman of Ag and I am chairman of HELP. When I am on Ag and they want to get some stuff to have jurisdiction over, then the people at Health and Human Services step in and they say no. Now I am on HELP and we want to get more jurisdiction for FDA and Ag says no. It drives you nuts sometimes. So you have these interlocks that have been built up over the years, and, yes, we have a crazy patchwork quilt.

I would say forthrightly that what we need in this country, I believe, after having been through this for 35 years on the Ag Committee in both the House and Senate and now in the HELP Committee for 22 or 23 years there, we need a single food safety agency in America that would pull from Ag and pull from FDA and set up a food safety agency.

I would say to my friend that agriculture has a lot of things on their plate. They have exports, they have farms, they have a lot of stuff on agriculture. FDA, they have drugs and all the stuff with drugs that they have to do—new drugs and investigational new drugs and all this other stuff and then they have some foodstuff. Foodstuff always gets kind of left behind. I see the same thing in agriculture. They have so many other things on their plate that takes so much money, the foodstuff gets kind of left behind.

So I think what we ought to do, if you want to drill down, is to get rid of all that and put it in one food safety agency. I have proffered this in the past, but I don't find much support for that. The institutional biases against that are tremendous. So I say to my friend: You are right. This bill will not solve all our problems, but I think it is a good step. I think it is a good step forward. It has strong bipartisan support. It has the support of industry and consumers, and that doesn't happen too often around here.

There is that old saying: Don't let the perfect be the enemy of the good. I hear my friend from Oklahoma, and what he is saying is we ought to have

a more perfect system than what we have. I agree. We ought to have a more perfect system, but I can't get that done. We can't get that done here. But we can do some good things and we can take some steps to make it better than what it is and that is what this bill does.

Mr. COBURN. Madam President, if the Senator will yield, I would just say that I think we ought to fix the real problems. By fixing the symptoms, we delay the time in which we fix the real problems, and I think that is what we are doing.

I thank the Senator.

Mr. HARKIN. Well, I agree we are not getting to the nub of it, but it is a good step forward. I mean, sometimes you do have to treat the symptoms before you can get to the underlying cause. I am not a doctor. I don't want to practice medicine without a license.

I would just say again—to repeat—this bill is a major step forward. It will not solve all the problems. I can understand that, and I think there is a lot of other things we need to do, but you have to do what is possible around here. Politics is the art of the possible—to try to move the ball forward, to make changes that are more beneficial than detrimental, and I believe that is what this bill does.

We have worked long and hard. I see my colleague, Senator ENZI, is on the floor. I couldn't ask for a better friend and a better ranking member to work with. We reported this bill out last November without one dissenting vote—a voice vote.

I am sorry the Senator from Oklahoma had to leave, but I would just say that he did not object. He is on our committee, and he did not object to reporting out the bill. We had hearings, a markup, and we went through all the right and normal procedures. Then, since last November, our staffs—Senator ENZI's staff, my staff, and others, Senator GREGG's staff, I know, Senator BURR's staff—have been involved, and we have too personally—the Senators have been involved in this since at least the first of the year—working out the problems and trying to get down to a bill that would have widespread support on the floor.

Again, on something such as this, where we want to tackle a problem that is certainly not in any way partisan, you would like to get broad support for it. We kind of like to get something that would have a lot of folks, rather than a few, in order to send a strong signal that the Congress wants to make changes in the way we inspect food in this country.

I would say this bill we have—if this bill were to come to the floor—would get over 90 votes. I bet it would get over 90 votes. Maybe it would get 95, maybe 98, I don't know, but there would certainly be over 90 votes. So we have strong bipartisan support. As I said, we have the industry that supports it and the consumers. That doesn't happen a lot around here.

I can understand why both sides support it. Senator ENZI, Senator GREGG, Senator BURR, myself, Senator DURBIN's staff, Senator DODD, and others on our side have been working together, and I think we have a good bill. Is it perfect? No, it is not perfect. Is it going to solve every single problem the Senator from Oklahoma brought up? No, it is not. I am not Pollyannaish about this. But we do what is the art of the possible. We do what we can to make the system work better, to make sure we have less foodborne illnesses than what we have today. This bill will do that, not 100 percent, but it will sure cut down on the number of foodborne illnesses in this country.

This is long overdue. It is long overdue. My goodness, the last time we addressed this issue on food inspection, under the jurisdiction of the FDA, was 1938. If I am not mistaken, it was in 1938. I wasn't born until 1939, and we haven't even visited this since 1938. Think of the changes that have taken place in our country in the way we process and ship food. My gosh, when these were passed in 1938, my own family had our own garden, we canned our own vegetables, we canned our own meat. Yes, we canned meat, in glass jars, by the way.

We process food differently now. We didn't buy food from other countries or halfway across the country. We ate locally. We grew our own food. But times have changed, and we like it now. I like the fact that I can buy strawberries in the middle of the winter in Washington or I can buy a mango sometimes when I want one or bananas and things such as that. It is a wonderful system of making food available. What is not so wonderful is how that food is inspected as it goes through the growing, the picking, the processing, the shipping, the packaging, and then on to the consumer. That is what is not working well, and that is what this bill does address.

Again, the objection the Senator had in terms of it not being paid for, this is an authorization bill, not a spending bill. I wish to clear up a few things. I know my friend from Wyoming is here, and I want to hurry up to give him the floor, but just a couple of things I wish to cover for the record.

No. 1, on the deficit, there has been some talk about this increasing the deficit. I wish to make this very clear, precisely clear, that according to the CBO there will be no deficit increase for 10 years on this bill. I wish to make that point. In fact, we added language, at Senator COBURN's request, to have Health and Human Services review its own programs to trim any fat to help ensure fiscal responsibility and we have a reporting system and other things the Senator from Oklahoma wanted and we put in the bill.

The next-to-the-last thing I wish to say is this. The food industry wants this bill. Why do they want it? Well, on the one hand, people get sick and people die. On the other hand, the food industry suffers too. First of all, a lot of

times they get sued and they have to pay out big compensations. But, secondly, the disruption costs them a lot of money. When salmonella led to the recall of tomatoes, the entire Florida industry suffered, losing over \$500 million in revenue—\$500 million. When we had E. coli in spinach, growers lost \$350 million. So they have an interest also in making sure we have a good food inspection system, and that is why they are for this bill.

I have letters from the Grocery Manufacturers Association, the U.S. Chamber of Commerce, National Restaurant Association, Consumers Union, PEW Charitable Trust, the Center for Science in the Public Interest, Trust for America's Health.

It is a rare thing when I can say that both the Chamber of Commerce and the Center for Science in the Public Interest are on the same page. You have pretty broad support. So it is a shame we can't move this bill forward. It is needed.

I wish to also pay my respects to Senator DURBIN. He has been working on this issue, literally, I know for the last 10 years. He has been bugging me about it for 10 years, and I didn't even have the power to do anything about it. So I know he has been insistent we work on this for a long time. Our committee has taken it up under Senator ENZI's leadership, then later under Senator Kennedy, and now it falls to me, as chairman, to work together on it in a very good bipartisan way.

Madam President, on November 18, 2009, the Senate Committee on Health, Education, Labor, and Pensions reported out S. 510, the FDA Food Safety Modernization Act, without a single dissenting vote. Since that time, the bipartisan group of cosponsors—Senators DURBIN, DODD, and I on the Democratic side, and Senators ENZI, GREGG, and BURR on the Republican side—have continued to work with Senators on both sides of the aisle to refine and improve this much needed legislation.

Legislation to reform our Nation's outdated food safety system is long overdue. And that is why I am so deeply disappointed that after all of this work, the Senator from Oklahoma has decided he will not allow us to move the bill forward.

I understand that Senator COBURN's primary objection to the legislation is that it is not paid for. I think that objection is misguided, for reasons that I will explain. But I would also like to emphasize that the unanimous consent agreement proposed yesterday by the majority leader, and objected to by Senator COBURN, would have allowed the Senator to have an up or down vote on an amendment to offset the cost of the bill, notwithstanding the fact that the bill contains no mandatory spending.

I know Senator COBURN states that this bill will contribute to the federal deficit. However, I have to respectfully disagree. In fact, as this chart clearly

shows, the nonpartisan Congressional Budget Office has indicated that this legislation does not contribute to the Federal deficit.

Our bill has no mandatory spending—only authorized spending. This legislation, like countless others that have passed this year, will be subject to the annual budget and appropriations process.

Furthermore, during the negotiations on the bill, we added language at Senator COBURN's REQUEST to have HHS review its own programs to trim any fat to help ensure fiscal responsibility. The Secretary is required to annually report her findings to Congress on these programs' effectiveness in achieving their goals.

Conservative Republicans like Senators GREGG, ENZI, and BURR all support this bill. I am again disappointed that Senator COBURN won't even let us consider it on the Senate floor, even though we have agreed to give him an opportunity to offer his amendment to the bill.

While I am here on the floor today, I would like to address some other misstatements that I have heard about this legislation as we have worked over these past weeks and months to bring it to the floor. First, there are claims that this bipartisan legislation is harmful and burdensome to the food industry. I find that very hard to believe. This legislation has widespread support amongst industry and consumer groups. The reality is that every time there is an outbreak of foodborne illness, the food industry suffers, as consumers lose confidence in the safety of our food supply.

When salmonella contamination led to the recall of tomatoes, the entire Florida tomato industry suffered, losing over \$500 million in revenue.

And during the 2006 spinach e. coli contamination that originated at a single farm, the spinach industry lost \$350 million.

The good actors in the food industry already take steps to prevent food borne illness, but the entire industry suffers when FDA does not have sufficient authority to ensure that all processors will sell safe food.

I have received letters from the Grocery Manufacturing Association, U.S. Chamber of Commerce, National Restaurant Association, The PEW Charitable Trust, Consumers Union, Center for Science in the Public Interest, and Trust for America's Health, to name a few. It is a rarity when I can say that both the Chamber of Commerce and CSPI are on the same page. Here are several letters of support by both groups and a joint letter that both industry and consumer groups have signed. Let me read an excerpt from the joint letter:

Our organizations—representing the food industry, consumers, and the public-health community—urge you to bring S. 510 to the floor, and we will continue to work with Congress for the enactment of food safety legislation that better protects consumers,

restores their confidence in the safety of the food they eat, and addresses the challenges posed by our global food supply.

Sincerely,

American Beverage Association, American Frozen Food Institute, American Public Health Association, Center for Foodborne Illness Research & National Restaurant Association, The PEW Charitable Trusts, Trust for America's Health, Snack Food Association, S.T.O.P. Safe Tables Our Priority, U.S. Chamber of Commerce, U.S. Public Interest Research Group.

National Association of Manufacturers, National Coffee Association of the USA, National Confectioners Association, National Consumer League Education, Center for Science in the Public Interest, Consumer Federation of America, Consumers Union, Food Marketing Institute, Grocery Manufacturers Association, International Bottled Water Association, International Dairy Foods Association.

Madam President, Senators often talk about the importance of addressing so-called “kitchen table” issues—the practical, everyday concerns of working Americans. Well, food safety is literally a “kitchen table” issue. And it couldn't be more urgent or overdue. It is shocking to think that the last comprehensive overhaul of America's food safety system was in 1938—more than seven decades ago.

On the whole, Americans enjoy safe and wholesome food. The problem is that “on the whole” is just not good enough.

As you can see from this chart, recent food-borne outbreaks in America have been wide in scope and have had a devastating impact on public health.

When kids die from eating peanut-butter sandwiches their mothers pack for lunch, we have a problem. When people get sick—and many die—from eating bagged spinach and lettuce, we have a problem. When cookie dough sold in supermarkets contains deadly E. coli, we have a problem. When 1,000 Americans get sick from eggs that have been recalled for possible salmonella contamination, it is undeniable that we have a problem.

As you can see from this chart, the Centers for Disease Control and Prevention estimate that foodborne illnesses cause approximately 76 million illnesses a year, including 325,000 hospitalizations and 5,000 deaths.

According to Georgetown University, these foodborne illnesses costs the United States \$152 billion per year in medical expenses, lost productivity, and disability.

Those numbers are just staggering. This is like learning that, each year, nearly 200,000 people in the United States die because of medical errors and hospital-acquired infections—most of them totally preventable.

As this chart shows, the cost of foodborne illnesses in my home State of Iowa alone is nearly \$1.5 billion per year.

These aren't just numbers, these are real people. Real people like Kayla from Monroe, IA. On October 22, 2007, Kayla turned 14 and passed her driver's

test. The next day she stayed home with a foodborne illness and was admitted to Pella Community Hospital when her symptoms worsened. She did not respond to antibiotics and within a week her kidneys began to fail. Kayla was transferred to Blank Children's Hospital for dialysis, but her condition continued to deteriorate. She suffered a seizure and began to have heart problems. Just a few days later Kayla's brain activity stopped and her parents made the painful decision to take their beautiful 14-year-old daughter off life support.

These things are totally intolerable. And yet, apparently, we tolerate them.

Well, no more. We can no longer tolerate the unnecessary pain, suffering, and death caused by America's antiquated, inadequate food safety system.

Let's put it plainly: Our current regulatory system is broken. It does not adequately protect Americans from serious, widespread foodborne illnesses.

Bear in mind that, at the beginning of the 20th century, Americans ate a much simpler fare—and, most of the time, they prepared meals from basic ingredients in their own homes, with their own hands.

Today, our meals have grown more complex, with much more varied ingredients and diverse methods of preparation. By the time raw agricultural products find their way to our dinner plates, multiple intermediate steps and processes have taken place. Food ingredients typically travel thousands of miles from farms to factories to fork and they are intermingled and mixed together along the way.

We love today's broader selection of fresh foods available year-round. But this brings with it major new food safety challenges. For instance, we rely more on foods imported from countries with less rigorous inspection rates and different production standards and conditions than our own.

Yet despite dramatic changes in our tastes, as well as in methods of production and distribution, our food safety laws have not changed. The U.S. regulatory system has failed to incorporate the latest scientific research on ways to make and keep food safe. Another shortcoming: Food safety agencies are still encumbered by methods that often allocate disproportionate resources to activities that do little to make our food safer. FDA's own subcommittee on Science and Technology concluded in 2007 that FDA does not currently have the capacity to ensure the safety of our food.

OK, so what do we need to do?

For starters, we need improved processes to prevent the contamination of foods and improved methods to provide safe food to consumers. To achieve this, more testing and better methods of tracking food can be utilized to verify that the processes are working.

Thirty years ago, the Nation had 70,000 food processors and the FDA inspectors made only 35,000 visits a year to cover these processors. Even that

level of oversight was inadequate. But today, a full decade into the 21st century, we have 150,000 food processors, twice as many plants, and the problem has grown far worse. Today FDA inspectors make just 6,700 visits each year; only one-fifth as many visits as they made three decades ago. This is absurdly inadequate. It is a wide-open door to an endless series of outbreaks of foodborne illness.

As this chart shows, the FDA Food Safety Modernization Act overhauls our food safety system in four critical ways:

It improves prevention of food safety problems, improves detection of response to foodborne illness outbreaks when they do occur, enhances our Nation's food defense capabilities, and increases FDA resources.

With the most recent recall for possible *Salmonella* contamination in at least 550 million eggs, we have yet another example of how this food safety bill, had it been in place, could have improved the FDA's ability to prevent and respond to the outbreak. This bill includes the following provisions that would have been beneficial to respond to this contamination and prevent future contamination:

It requires stronger trace back provisions so the contamination source and affected egg products could have been more readily and quickly identified.

It provides the FDA with mandatory recall authority in the event that businesses do not voluntarily recall products.

It requires retailers to notify consumers if they have sold food that has been recalled so consumers may have been aware of the contamination sooner.

It provides stronger disease surveillance so the outbreak may have been discovered earlier. It includes stronger enforcement provisions that would generally deter producers from cutting corners on food safety so the contamination may have been prevented or detected sooner.

It gives the FDA increased access to company records to identify contaminated foods so the likelihood of contamination may have been minimized.

The bill before the Senate today will also dramatically increase FDA inspections at all food facilities. And it does much more. It will give FDA the following new authorities:

It requires all food facilities to have in place preventive plans to address identified hazards and to prevent adulteration; and it gives FDA access to those plans.

It expands FDA's access to records in a food emergency.

It requires importers to verify the safety of imported food.

It strengthens surveillance systems to detect foodborne illnesses.

It requires the Secretary of the Department of Health and Human Services to establish a pilot project to test and evaluate new methods for rapidly tracking foods in the event of a foodborne illness outbreak.

And, as I previously mentioned, this bill gives FDA the authority to order a mandatory recall of food.

I want to say a word about the impact of this legislation on farms and small processors. I have long said that our new regulations should be effective, but not excessively burdensome. I am proud to say that this legislation comprehensively modernizes our food safety system, but does so without injury to farms and small processors. There are requirements throughout this bill to assure that the compliance burdens on farms and small processors are minimized to the extent practicable, and the legislation directs FDA to exempt both small processors and farms from certain provisions of this bill if they are engaged in low-risk activities.

As this chart shows, this bill makes several accommodations to address the concerns of small businesses. We have included language to ensure that state and federal personnel help educate small businesses about the new regulations and help folks comply with these regulations. This approach is tied to risk, grounded in common sense, and set up to help everyone succeed. I am confident we have addressed the legitimate concerns we have heard from small business owners.

This food safety bill has been bipartisan from the beginning. It is an important, measured, and necessary effort to modernize our food safety system and protect American consumers across the country from foodborne illness.

I hope we can find a path forward and move this critical legislation as soon as possible.

I have some letters here, Madam President, and I also ask unanimous consent to have these printed in the RECORD at the end of my comments in support of this bill.

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

(See exhibit 1.)

Mr. HARKIN. It is a shame we can't move this forward. Like I said, it would get over 90 votes. I think we could dispose of a couple amendments fairly rapidly. I don't think it would take much time at all to move this legislation. So I am hopeful that even though we can't take it up now, maybe we can work with the Senator from Oklahoma, perhaps work something out to get some kind of agreement to get this moving forward.

As I yield the floor, Madam President, I will recognize and thank my colleague from Wyoming, Senator ENZI, who has also worked diligently for a long time, and his staff. I will tell him we will continue to work on this bill. We will continue to try to see what we can do to overcome some of these bumps in the road and try to get this bill through.

So I thank my friend from Wyoming for his great leadership and his working relationship specifically on this bill but on a lot of other things too.

EXHIBIT 1

SEPTEMBER 15, 2010.

Senator HARRY REID,
Office of the Senate Majority Leader, Capitol
Building, Washington, DC.
Senator MITCH MCCONNELL,
Office of the Senate Minority Leader, Capitol
Building, Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: Our organizations are writing to urge you to schedule a vote on S. 510, the FDA Food Safety Modernization Act of 2009, at the soonest possible date. The HELP Committee approved a strong, bipartisan bill in November, and we believe that a vote would keep the momentum going for enactment of landmark food-safety legislation.

Strong food-safety legislation will reduce the risk of contamination and thereby better protect public health and safety, raise the bar for the food industry, and deter bad actors. S. 510 will provide the U.S. Food and Drug Administration (FDA) with the resources and authorities the agency needs to help make prevention the focus of our food safety strategies. Among other things, this legislation requires food companies to develop a food safety plan; it improves the safety of imported food and food ingredients; and it adopts a risk-based approach to inspection.

Our organizations—representing the food industry, consumers, and the public-health community—urge you to bring S. 510 to the floor, and we will continue to work with Congress for the enactment of food safety legislation that better protects consumers, restores their confidence in the safety of the food they eat, and addresses the challenges posed by our global food supply.

Sincerely,

American Beverage Association, American Frozen Food Institute, Center for Foodborne Illness Research & Education, Center for Science in the Public Interest, Consumer Federation of America, Consumers Union, Food Marketing Institute, Grocery Manufacturers Association, International Bottled Water Association, International Dairy Foods Association, National Association of Manufacturers, National Coffee Association of U.S.A., Inc., National Confectioners Association, National Consumers League, National Restaurant Association, The PEW Charitable Trusts, Trust for America's Health, Snack Food Association, S.T.O.P Safe Tables Our Priority, U.S. Chamber of Commerce, U.S. Public Interest Research Group.

CENTER FOR SCIENCE
IN THE PUBLIC INTEREST,

Washington, DC, September 8, 2010.

Hon. RICHARD DURBIN,
U.S. Senator, U.S. Senate, Washington, DC.
Hon. JUDD GREGG,
U.S. Senator, U.S. Senate, Washington, DC.

DEAR SENATORS DURBIN AND GREGG: The Center for Science in the Public Interest (CSPI) supports the bipartisan agreement on a manager's amendment to S. 510, the FDA Food Safety Modernization Act, and urges the Senate to pass S. 510 (as amended) at the earliest possible date. CSPI is a nonprofit health advocacy and education organization focused on nutrition, food safety, and alcohol issues, and supported by the 900,000 member/subscribers to its Nutrition Action HealthLetter.

The FDA Food Safety Modernization Act is a critically needed update to our 70-year-old food safety laws. Today, millions of consumers suffer preventable food-borne illnesses, hospitalizing hundreds of thousands and causing thousands of pre-mature deaths.

Our member/subscribers, seeing recurring news of outbreaks and recalls, identify the need for Congress to fix our food safety system as a top priority. Your legislation would do this by providing the Food and Drug Administration (FDA) with a mandate to prevent foodborne illness, requiring companies to implement food safety plans, setting standards for high-risk foods, establishing more frequent inspections, giving FDA authority to recall dangerous foods, and ensuring imported food meets the same standards as food produced here. These changes provide FDA with the modern tools it needs to assure consumers that food they buy is safe to eat.

We appreciate the hard work by the bipartisan cosponsors of the FDA Food Safety Modernization Act to reach agreement on legislation that will protect the public from foodborne disease. We urge the Senate to complete work on this important legislation.

Sincerely,

DAVID W. PLUNKETT,
Senior Staff Attorney.
CAROLINE SMITH DEWAAL,
Food Safety Director.

FOOD MARKETING INSTITUTE,
Arlington, VA, September 13, 2010.

Hon. RICHARD DURBIN,
Hart Senate Office Bldg,
Washington, DC.

Hon. JUDD GREGG
Russell Senate Office Bldg,
Washington, DC.

DEAR SENATOR DURBIN AND SENATOR GREGG: On behalf of the Food Marketing Institute (FMI) and its 1,500 food retail and wholesale member companies, I would like to express our strong support for S. 510, the FDA Food Safety Modernization Act.

FMI members operate approximately 26,000 retail food stores with combined annual sales of roughly \$680 billion, representing three quarters of all retail food store sales in the United States. The most important goal for these companies is ensuring that the products they sell are safe, affordable and of the highest quality as possible. As the purchasing agent for the consumer and the final link in the supply chain, the supermarket industry continually seeks ways to work with our suppliers and government to enhance the safety of the food supply.

We applaud your leadership and the sponsors of this legislation for working in a bipartisan manner to develop a bill that will help assist us in this endeavor by ensuring that FDA has the necessary authority, resources and commitment to its food protection responsibilities.

We are particularly pleased with the legislation's aggressive focus on prevention. Preventing food safety problems from occurring by mitigating risk will have the greatest impact on improving food safety. In addition we support:

The requirement to have food safety plans in place;

The granting of mandatory recall authority to the FDA;

FDA working with industry to develop enhanced traceability systems;

The recognition of accredited third-party programs to help supplement FDA efforts; and

The flexibility provided to help prevent one-size-fits-all solutions to improving food safety.

Each of these provisions are important building blocks in creating a more effective and efficient food safety system. FMI values the public-private relationship that we share with the government to protect the nation's food supply and look forward to continuing

to work with you and your colleagues to enact meaningful food safety legislation.

Regards,

JENNIFER HATCHER,
Senior Vice President, Government Relations.

FOOD & WATER WATCH,
Washington, DC, September 13, 2010.

Hon. RICHARD DURBIN,
U.S. Senate,
Washington, DC.

Hon. JUDD GREGG,
U.S. Senate,
Washington, DC.

DEAR SENATORS DURBIN AND GREGG: On behalf of the non-profit consumer organization Food & Water Watch, I am writing to urge the U.S. Senate to pass S. 510, The FDA Food Safety Modernization Act, as soon as it reconvenes this week so that it can be conferred and reconciled with its House companion bill, H.R. 2749, The FDA Food Safety Enhancement Act.

The bill that you have authored contains many strong features that will strengthen the Food and Drug Administration's (FDA) ability to regulate food safety for the products it regulates:

It will require food processors to establish food safety plans that will include preventive control measures to mitigate the possibility of adulterated food from entering the food supply;

The bill will improve FDA's ability to police the safety of the ever-growing volume of food imports;

S. 510 gives the FDA the authority to establish performance standards on the food industry to achieve pathogen reduction targets;

The bill gives FDA the authority to recall adulterated food items when a company refuses to do so voluntarily.

We are concerned, however, with the inspection frequency that is included in the Managers Amendment that will be offered as a substitute to the version of S. 510 that was reported out of the Senate Health, Education, Labor and Pensions Committee last fall. While the language in the Managers Amendment may in fact reduce the time between FDA inspections of food facilities, we still believe that an inspection frequency of once every five years for high-risk food plants and every seven years for low-risk plants is woefully inadequate. We remain unconvinced that had all of the other provisions in S. 510 had been in place at the time of the massive Wright County Egg and Hillandale Egg Companies recalls that we would have not had a similar food borne illness outbreaks occur because these two firms would not have been receiving FDA inspections frequently enough to ensure that they were complying with the law. Only with adequate enforcement of food safety laws and regulations will we see compliance with those standards by industry.

We are also sympathetic to the calls from small processors and small farmers who are fearful, that some of the provisions of S. 510 will cause undue burdens on them. We applaud the inclusion in the Managers Amendment of a technical assistance program for small processors and farmers and direction to FDA to take into account the impact on small business when the agency drafts its food safety regulations. We also believe that there are merits to the provisions in the amendment that has been crafted by Senator Jon Tester that those small processors and farmers who sell most of their products directly to consumers, restaurants, and other local businesses should not be subject to all provisions of the bill in light of the fact that the supply chain is very short. It is our understanding that additional consumer protections have been added to Senator Tester's

amendment, so we strongly urge your support for its inclusion in the final bill passed by the Senate.

We commend your efforts to bring this bill to the Senate floor. This bill has enjoyed bipartisan support from its inception and it is a credit to those who have taken a leadership role in this legislation's development.

Should there be questions regarding this letter, please feel free to contact me,

Sincerely,

WENONAH HAUTER,
Executive Director.

TRUST FOR AMERICA'S HEALTH,
September 8, 2010.

Senator RICHARD DURBIN,
*U.S. Senate,
Washington, DC.*

Senator JUDD GREGG,
*U.S. Senate,
Washington, DC.*

DEAR SENATORS DURBIN AND GREGG: Trust for America's Health (TFAH), a nonprofit, nonpartisan public health advocacy organization, would like to express our strong support for immediate Senate passage of the FDA Food Safety Modernization Act (S. 510). Although every American depends on the safety of the food they serve to their families, the Food and Drug Administration (FDA) lacks the tools to ensure that safety. S. 510 would finally help bring the FDA into the 21st century.

Approximately 76 million Americans—one in four—are sickened by foodborne disease each year. Of these, an estimated 325,000 are hospitalized and 5,000 die. A recent study by Ohio State University found that foodborne illnesses cost the U.S. economy an estimated \$152 billion annually. With multiple severe food outbreaks in recent years, it is urgent that the Senate take this step to keep Americans safe.

The FDA Food Safety Modernization Act would place more emphasis on prevention of foodborne illness and give the FDA new authorities to address food safety problems. Under this legislation, food processors would be required to identify potential hazards in their production processes and implement preventive programs to eliminate those hazards. Additionally, the bill would require FDA to inspect all food facilities more frequently and give FDA mandatory recall authority of contaminated food. S. 510 is a bipartisan bill, with widespread support from industry, consumer groups, and public health organizations. The bill passed the Senate HELP Committee with a unanimous voice vote, and food safety legislation passed the House last year with overwhelming bipartisan support.

We thank you for your strong leadership on this legislation. If you have any questions, please do not hesitate to contact TFAH's Government Relations Manager, Dara Alpert Lieberman.

Sincerely,

JEFFREY LEVI, Ph.D.,
Executive Director.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
September 10, 2010.

DEAR MEMBER OF CONGRESS, The events of the past two weeks have illustrated a pattern that is all too familiar. Local health officials around the country begin to see an uptick in illnesses from a particular source. As they notify the Centers for Disease Control and Prevention, epidemiologists begin to see a pattern in the illness and outbreak reports, identify a food as the likely cause, and notify the Food and Drug Administration (FDA). FDA, state health and local officials then deploy investigators across the country, furiously searching for the source

of the illness, knowing that every day more people are getting sick, some seriously. In the meantime, the public must be warned to avoid the food of concern, creating anxiety for consumers and economic losses for farmers, food processors and retailers.

This time we're seeing this pattern play out with Salmonella Enteritidis in eggs, with illnesses in 22 states and more than half a billion eggs being recalled. But in recent years it has been spinach, salsa, peanut butter, bean sprouts, cookie dough, green onions—the list goes on and on, covering many of our most common foods. Many people are left wondering: heading into the second decade of the 21st century, why can't we prevent and react more effectively to the threat from foodborne illness?

Sadly, the answer is simple. As President Obama said during last year's peanut butter outbreak, caused by a different form of Salmonella, we have a food safety regulatory system designed early in the 20th century, one that must be overhauled, modernized and strengthened for today.

Under the current system, FDA is often forced to chase food contaminations after they have occurred, rather than protecting the public from them in the first place. Difficulties in tracking the movement of food from its origin to its eventual sale to the public (often far across the country) can frustrate efforts to identify contaminated food. The biggest surprise to most people: FDA cannot order a recall of contaminated food once it is found in the marketplace. Although government has a crucial role in ensuring the safety of our food supply, strong regulation has been missing. An overhaul of our antiquated food safety system is long overdue.

Proposed food safety legislation would give FDA better ways to more quickly trace back contaminated products to the source, the ability to check firms' safety records before problems occur, clear authority to require firms to identify and resolve food safety hazards, and resources to find additional inspections and other oversight activities. Pending legislation would also give the agency mandatory recall authority, and other strong enforcement tools, like new civil penalties and increased criminal penalties for companies that fail to comply with safety requirements. In a world where more and more food is imported, the legislation also would strengthen FDA's ability to ensure the safety of imported food.

The good news is that a bipartisan majority in the House of Representatives passed major food safety legislation last year that would move the United States from a reactive food safety system to one focused on preventing illness. Likewise in the Senate, a bipartisan coalition has developed a strong food safety bill that is ready for the Senate floor. This legislation has the support of a remarkably broad coalition of public health, consumer and food industry groups. We commend both chambers for their hard work.

Now it's time to finish the job. We encourage Senators to support a critical and commonsense piece of public health legislation. And, we urge the House and Senate to quickly deliver a modern food safety bill to the President's desk. It's time to break the pattern of foodborne illnesses and economic loss. It's time to give FDA the modern tools and resources it needs to meet the challenges of the 21st century.

KATHLEEN SEBELIUS,
*Secretary, Department of Health
and Human Services.*
MARGARET A. HAMBURG, M.D.,
Commissioner of Food and Drugs.

AMERICAN FEED

INDUSTRY ASSOCIATION,

Arlington, VA, September 9, 2010.

Hon. TOM HARKIN,

Hon. MICHAEL B. ENZI,

*Senate Committee on Health, Education, Labor,
and Pensions, U.S. Senate, Washington,
DC.*

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: On behalf of the membership of the American Feed Industry Association (AFIA), I write to commend your bipartisan efforts to craft well-reasoned, science-based legislation to enhance FDA's regulation of U.S. food safety. AFIA wishes you to know of its strong support for S. 510, the FDA Food Safety Modernization Act of 2009, as reported by the Senate Committee on Health, Education, Labor & Pensions (HELP), a bill we believe will provide FDA with authorities identified as necessary to help prevent and, when necessary, deal with food safety episodes.

AFIA is the only national trade association representing the manufacturers of livestock, poultry and pet foods. Our more than 500 member companies also include feed and pet food industry ingredient suppliers, the animal health industry, equipment manufacturers and those firms providing goods and services to the industry. In addition, AFIA membership includes more than two dozen state, regional, national and international trade associations representing various facets of the commercial feed and pet food industries.

Food safety is AFIA's number one priority. We strongly support science-based approaches to improve the safety of America's food system. Our commitment is reinforced through AFIA's Safe Feed/Safe Food program, as well as through the industry's third-party Feed Certification Institute (FCI), efforts which help the industry consistently operate well above FDA requirements. AFIA believes enhancements as contained in S. 510 will help make a very good federal food safety system even better.

AFIA pledges its effort to help you to quickly pass S. 510 in the Senate, and will continue these efforts through conference committee action with the House. AFIA looks forward to working with Congress to enact this important food safety legislation.

Sincerely,

JOEL G. NEWMAN,
President and CEO.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, September 8, 2010.

Hon. DICK DURBIN,
*U.S. Senate,
Washington, DC.*

Hon. JUDD GREGG,
*U.S. Senate,
Washington, DC.*

DEAR SENATOR DURBIN AND SENATOR GREGG: Consumer Federation of America strongly supports passage of the FDA Food Safety Modernization Act (S. 510). CFA is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy and education.

Foodborne illness strikes tens of millions of Americans each year, sends hundreds of thousands to the hospital, and kills approximately 5,000 of us. The diseases are more than "just a bellyache." Many victims suffer long-term chronic health problems including reactive arthritis, kidney failure and Guillain-Barré syndrome. Children under the age of 5 are the most frequent victims of foodborne illness. People over age 60 are most likely to die after contracting a food-related illness. The economic costs are enormous. A recent study estimated the annual cost of all foodborne illnesses to be \$152 billion.

The suffering and heartbreak and deaths are pointless. Foodborne diseases are almost entirely preventable. They continue to rage because our nation's primary food safety agency, the U.S. Food and Drug Administration, operates under the constraints of a 70-year-old law that is largely extraneous to current threats to food safety. The Food, Drug and Cosmetic Act does not give the FDA a specific statutory mandate, appropriate program tools, adequate enforcement authority or sufficient resources to stop foodborne disease before it strikes us and our loved ones.

S. 510 changes the paradigm for fighting foodborne illness, directing the FDA to prevent foodborne illness rather than just reacting to reports of illnesses and deaths. It requires food companies to establish processing controls to avoid food contamination, gives the FDA authority to set food safety standards, and requires the Agency to inspect food processing plants regularly to assure controls are working as intended.

On behalf of CFA's millions of members, we thank you for your strong leadership in developing S. 510 and your determination to ensure its passage. We look forward to continuing to work with you to get a final bill to the President as soon as possible.

Sincerely,

CAROL L. TUCKER-FOREMAN,
*Distinguished Fellow,
Food Policy Institute.*

CHRIS WALDROP,
Director, Food Policy Institute.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I thank the Senator from Iowa, Mr. HARKIN, for his kind words and also for his great leadership on the HELP Committee. We have a big area we cover—health, education, labor, and pensions—and we have a lot of bills we are working on. I am pleased at the bipartisan way we are able to work on them, his staff and my staff. Actually, the members of the committee are very engaged on the issues we are covering, and they are very important issues for America.

MINE SAFETY

Madam President, I came to the floor to talk about a little different issue than what we have been talking about, but it is another issue for the HELP Committee. This one comes under that category of labor. It is safety—mine safety.

The reason I am on the floor is, I have seen some articles appearing in different parts of the United States that are inaccurate on what is happening on mine safety, and so I wish to take a moment to clear up some of that confusion that has been caused by a breakdown in bipartisan negotiations on the mine safety legislation in this last week.

The terrible tragedy that occurred in West Virginia this past April again focused us on the strength of our Federal mine safety laws and regulations. My State leads the Nation in coal production. We do about 40 percent of all the Nation's coal, and my county accounts for most of that. We have 92 trains a day that leave our county. That is over 1 million tons of coal a day.

I have always considered workplace safety as one of the most important missions of the HELP Committee. The first bill I did was on OSHA. I have been pleased to work across the aisle to improve safety, and that is exactly what I have tried to do this year, as well, with my colleagues from West Virginia and members of the committee under the direction of Chairman HARKIN, who has been very helpful on this.

As my colleagues well know, negotiations had been making significant progress until we ran into the stumbling block known as the election cycle. The staffs of seven Senators have been meeting several times a week for over 2 months, and all through the recess period. Agreements had been formed on over a dozen important proposals. I think there were 14 that they were in agreement on, 7 more we were waiting for approval to see if there was agreement or if there were more changes needed. Then there were five or six that the Senators themselves had to work out. Several of those important ones were right on the brink of compromise or agreement when the talks were abruptly called off until after the election.

Despite what has been said in the press and on the floor, the simple fact is that we might well have had an agreement right now if all the people were to have stayed at the table and decided this did not need to be an election issue. This very process of requesting unanimous consent on a bill, which could happen, would not even be on the bill we have been working on. It would be on one that was introduced before this process came into being. Everyone knows that would not have sufficient support to pass as part of political theater.

Certainly it is not for me to consult on the political calculations of my colleagues, but it seems to me that political theater and failure to work together to get important things such as this done is exactly what the American people are so frustrated about this year. That is what all the passions are about.

We are serving this Nation best when we work together to accomplish the people's business. The formula is not that complicated. Anybody can do it. You just have to bring both sides together for discussions, you have to establish agreed-upon goals and work toward agreement on those goals, you have to consult with stakeholders who will be affected by the changes being discussed—that is anybody who is going to be affected. Then, once substantial agreement has been reached, you have to determine which issues the sides will never be able to agree upon and set those apart for another day's debate. That is what I call my 80-20 rule.

There are some issues in every topic we talk about here that have already been talked about so long that both sides are already so polarized that if

you mention one word with that particular issue, everybody plunges into the weeds and states the same arguments they have always done without listening to what the other side is saying. I have found you can work through those issues as well, as long as you can get people back up to the surface, out of the weeds, and get them to figure out something that allows both sides to save face. Yes, there is that problem around here, too. This formula has worked in the past for the very issue we are discussing today, which is mine safety.

In 2006, when I was the chairman of the HELP committee, we were faced with a string of tragic mine accidents in West Virginia. In response to the first one, Senator ROCKEFELLER and Senator Kennedy and I organized a trip to the Sago mine in West Virginia to meet with the miners, to meet with the victims' families, and to meet with the investigators. The three of us, along with Senators ISAKSON, MURRAY, and Byrd, then began negotiations. We were able to come up with an agreement in less than 2 months. It was called the MINER Act. It was the first major revision of the Mine Safety and Health Act since 1977. That has to be some kind of a record around here, but it was important and it was worked in a bipartisan way. That was done through a recess period as well.

Agreements have been formed on over a dozen important proposals, as I mentioned. Others are very close to an agreement. I am hoping that people will come back to the table, work through the time until elections are over and get this finished.

The MINER Act made important improvements to the emergency preparedness of underground mines—this one for the Sago mine—and has fostered tremendous improvements, particularly in communications technology adaptability to the underground environment. We are talking about being able to talk through several hundred feet, in some cases 1000 feet of granite. If you ever try to get a cell phone to work through a mountain or building, you will see what kind of problem they have. But tremendous improvements have been made because there is a market for it, mining is increasing, and the safety is essential. And we made it a part of that Miner Act.

One of the reasons I am so proud of the Miner Act is that we wrote it in the way I believe all legislation should be drafted. We brought in all of the stakeholders. We brought in the union, we brought in the nonunion people, we brought in the industry, we brought in the safety experts, and we brought in the investigators. The Mine Safety and Health Administration and all of these people sat around a table and worked through the biggest safety concerns and the best way to approach them. Because of the bipartisan nature of the bill, it sailed through a committee markup, it was passed by the Senate

unanimously a week later—that is as bipartisan as you can get—and it passed the House 2 weeks later, and there were only 37 House Members out of 435 opposing it. One more week later it was signed into law. That is how laws get done and make a difference.

During my tenure as the chairman of the HELP committee we were able to move 27 bills to enactment that way. In total we reported 35 bills out of committee and of those 35, 25 passed the Senate. We ran out of time on the others or we would have gotten those, too. That is the kind of cooperation and accomplishment Americans are demanding, especially on an issue as important and timely as workplace safety. Every day, thousands of Americans go to work in the energy production industry. The work they do benefits every single one of us and underpins our entire economy. This year, major accidents in the energy producing sector have taken the lives of 29 men in West Virginia, 6 in Connecticut, 7 in Washington State, 3 in Texas, and 11 off the coast of Louisiana.

If there were ever a time to work together to actually enact legislation, as opposed to playing political theater, this should be it.

It can be done. There is progress being made. My staff has not walked away from the table and I resent any articles that say that. I am impressed and in agreement with the agreements that have been made so far. I keep constant track of those. It should not take very long to finish the six or seven that are very close to being resolved and then it should not take very long for the Members to sit down and resolve the ones that are left after that.

We can have a mine safety bill. We cannot have it this week. I am sure we cannot have it next week. The House has already done a mine safety bill so we have to conference that. It is going to take a little bit of time, although for the bill we are working on, I think, and in a bipartisan way, it could be done unanimously on this side. The Senate would then do it unanimously, and it is very likely for the House to follow very closely—follow suit and finish it up very well. I think that is what the American people expect.

Articles about things falling apart are not nearly as useful as keeping people together.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

FOOD SAFETY

Ms. KLOBUCHAR. Madam President, as I listened to my friend from Wyoming, I was thinking, “Ditto for the food safety bill.” This is a bill for which there is vast bipartisan support. There always has been, from the mo-

ment it was introduced with four Democratic Senators, including myself, and four Republican Senators. Of course, the bill has been led by Senator DURBIN from the very beginning, and Senator HARKIN has played a key role. This has been a bipartisan bill. Given that we have only seen more foodborne illness outbreaks over the last few months, there is no reason we should not pass this bill. I rise today to urge my colleagues to support this bill.

I have stood here many times in support of the food safety bill. Part of this is because we had a very tragic thing happen in our State. We had three people die after the peanut butter that came out of Georgia, that peanut plant in Georgia. Three of the people who died were from Minnesota. One of them was named Shirley Almer. Her family expected her home for Christmas in 2008. She was a strong-spirited 72-year-old grandmother from Perham, MN. She had survived 2 bouts of cancer but she was actually recovering and doing quite well in recovery with a brief stay in a nursing home.

But she didn't make it home for Christmas that year. She died on December 21, 2008. It wasn't the cancer that killed her. She had battled that cancer. In fact, it was a little piece of peanut butter on her toast that 72-year-old grandmother ate. She didn't know it, but the peanut butter was contaminated with deadly salmonella bacteria. Shirley Almer and two other Minnesotans are among the 9 deaths officially related to peanut products, which also sickened nearly 700 people nationwide, many of them children. Shirley's son Jeff has stepped forward as a strong voice calling for reform of our food safety system.

Whether it is jalapeno peppers or peanut butter or, most recently, eggs, these outbreaks of foodborne illness and nationwide recalls of contaminated food highlight the need to better protect our Nation's food supply.

The good news is we know how to protect our Nation's food supply and we have legislation sitting on the table, literally sitting on the table, that could go a long way toward doing that. Sadly, that legislation has been stalled in the Senate since last November and now, as far as I understand, our colleague from Oklahoma has some concerns and at this late hour it is still stalled.

We know we can not afford any more delays. As one of the lead sponsors of the FDA Food Safety Modernization Act, I believe the Senate has every reason to pass this legislation. It is comprehensive. It covers everything from ensuring a safe food supply at the front end to ensuring a rapid response if tainted food gets into the supply chain. As I mentioned, it is bipartisan. You know what else about this legislation, which doesn't always happen with food safety consumer protection legislation? This has the support not only of consumer groups, not only of health groups, it has the support of many in

the food industry including SUPERVALU, a very large food chain including Cub Foods, located in Minnesota.

I did an event back in Minnesota with the CEO of SUPERVALU a few weeks ago on this issue. Why do our businesses care? Of course they care because they want to have safe food for the consumers. They also care because this is hurting their bottom line, when there are these scares that encompass food and people are scared. We were standing there and a woman went by and said, I don't know if I want to buy eggs and the CEO said, you know what, not one egg was recalled from our huge food stores all over the country—Cub Foods, SUPERVALU—not one egg, but consumers don't always know that. But when you have a bad actor, when you have one company, one factory as you had in Georgia, it can ruin it for everyone—consumers, obviously tragic for them, tragic injuries, but it also hurts the bottom line for these businesses that have not done anything wrong.

Hormel, the maker of Spam, was standing with us at SUPERVALU that day, talking about how important it was. General Mills, Schwans support this bill. We have widespread support in our food industry because they don't want to see another person get sick from tainted food.

Finally, we all know this legislation addresses a very serious issue. According to the Centers for Disease Control, foodborne disease causes about 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year. Yet, for every foodborne illness case that is reported, it is estimated that as many as 40 more illnesses are not reported or confirmed by a lab because people simply don't know why they got sick. The annual costs of medical care, lost productivity, and premature deaths due to foodborne illnesses is estimated to be \$44 billion.

There is a lot at stake here, a lot at stake for human life, and there is a lot at stake for the economy. As you know, 2 years ago, hundreds of people across the country suddenly got sick with salmonella. Once it hit Minnesota, and once people died in Minnesota, sadly, it took only a few days before the University of Minnesota and the Minnesota Health Department, our “food detectives” as they are called, or “team diarrhea”—which my staff didn't want me to say on the Senate floor but that is what we call them—worked together and they were able to solve this. How do they do it? Simple detective work. They simply called the families and homes of people who had gotten sick, people who had gotten very sick, they talked to their loved ones: Where did they eat? When did they eat? What did they eat?

They literally solved it in a matter of days. One State solved the jalapeno pepper problem—Minnesota. One state solved the Georgia peanut problem. That was Minnesota. That is why there is something to be learned from the model we used in our State.