

the “Louisiana purchase” are fresh on their minds.

Americans want us to take our time and get things right, and they want us to spend less. The voters have spoken. We need to show that we heard them.

TERRORIST AHMED GHAILANI

Madam President, yesterday’s acquittal in a Federal court of accused terrorist Ahmed Ghailani on all but 1 of 285 charges of conspiracy and murder is all the proof we need that the administration’s approach to prosecuting terrorists has been deeply misguided and, indeed, potentially harmful as a matter of national security.

You will recall that Attorney General Holder assured the American people last year that Ghailani would not be acquitted of the charges against him. Holder said back then:

With his appearance in Federal Court today, Ahmed Ghailani is being held accountable for his alleged role in the bombing of U.S. Embassies in Tanzania and Kenya and the murder of 224 people.

Holder also said back then that Ghailani’s prosecution in civilian court would prove its effectiveness in trying terrorists who were picked up on the battlefield.

At the time, most Americans wondered why we would even take the chance. Now they are wondering when the administration will admit it was wrong and assure us, just as confidently, that terrorists will be tried from now on—from now on—in the military commission system that was established for this very purpose at the secure facility at Guantanamo Bay or detained indefinitely if they cannot be tried without jeopardizing national security.

When it comes to terrorism, we should err on the side of protecting the American people.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### FDA FOOD SAFETY MODERNIZATION ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 510, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of Calendar No. 247, S. 510, a bill to amend the

Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. TESTER. Madam President, I wish to make a brief statement about the food safety bill. I very much appreciate the opportunity now that this important legislation is shaping up to be a much better bill with the inclusion of my amendment for family-scale producers. It protects the jobs of family farmers and ranchers and processors. It is time to get this bill passed and strengthen food safety for all Americans.

There is little disagreement that the necessity of this bill is real. If you take a look at the impacts of recent E. coli outbreaks, of salmonella and those kinds of foodborne diseases out there, it is absolutely critical we get this bill passed. I had some concerns with this bill as it was originally introduced, on its impacts to family-sized growers and processors. The fact of the matter is, these are folks who help build this country, and undue regulation on them—and I do believe it would be undue regulation—would simply stop a movement in this country that has gone on since this country’s inception, but more recently we have gone back to it with locally produced foods.

It is critically important my amendment be part of this bill. I appreciate everybody who worked to make that happen. Here is why. We deal with consolidation in our energy sector, we deal with consolidation in our banking sector—we have done it since I have gotten here, and before. We have consolidation in our food industry too. The fact is, we need to not encourage that consolidation. If we can get more locally grown food, if we get producers who connect up with consumers eyeball to eyeball, that is a positive thing. I don’t want to diminish their ability to do that. My amendment protects the ability for farmers markets to flourish and provide food for people locally, without shipping it halfway around the world and back again. Yet this bill also puts regulations on the industrialized folks because, frankly, with the size of their operations and because they are highly mechanized, when a mistake is made it can affect hundreds of thousands of people in 10, 20, 30 States. So this bill is a win-win for consumers, both locally and consumers who deal with the more highly industrialized food suppliers.

People have asked me why do you think the small guys can even be regulated by the local and State regulators in this country? First of all, they are small and there is a pride of ownership there that is real. They raise food, they don’t raise a commodity, as happens when operations get bigger and bigger. There is a direct customer relationship with that processor or that farmer that means a lot. If a mistake is made—which rarely happens—it doesn’t impact hundreds of thousands of people. We know exactly where the problem

was and we know exactly how to fix it. So the traceability of the outbreaks is immediate and is taken care of without impacting 20 or 30 States and hundreds of thousands of people.

As we move forward with this bill, I think it is incredibly important that we do things as we did in the last farm bill—move forward with locally grown food, move forward with that farmers market model that helps people get to know the people who produce and process their food. We don’t want to throw undue paperwork on those folks. They don’t have the ability to do it. It takes them out of the field to do that, and honestly, as they move forward, the consumer and the connection with that consumer makes it so that local entities can do that regulation much better than we can, anyway.

We have been over a pretty long road here over the last many months. I very much appreciate the work Representative DINGELL has done, in the House, on this bill. I very much appreciate the work that was done on my amendment over here. KAY HAGAN in particular, a great Senator from North Carolina, worked closely with me on this amendment and her input was incredibly valuable. I also thank Senator MERKLEY and the work he did on the amendment. I thank the consumers groups out there that I think found a commonsense solution to this issue, and many of the organizations we worked with over the last many months to make sure this bill meets the needs of the people, to make sure we do address the issue of foodborne illnesses and safe food but yet allows the little guys to grow, employ people, and allow that economy to get bigger and better as time goes on.

This is an important bill we need to get done. It makes sense for this country and it makes sense for people in agriculture.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BURRIS. Madam President, I ask unanimous consent to be able to speak as in morning business.

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

Mr. BURRIS. Madam President, I ask unanimous consent to be recognized for as much time as I need to consume.

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

FAREWELL TO THE SENATE

Mr. BURRIS. Madam President, as you know, one of the first duties delegated to freshman Senators is the high honor of presiding over the Senate. I

remember the very first time I sat where you are sitting now, Madam President. Throughout my time as a Member of this august body, I have had the opportunity to spend more than 200 hours in the Presiding Officer's chair and have earned two Golden Gavel. I also had the honor of delivering our first President's—President George Washington's—Farewell Address on his birthday of this year to this august body. From the chair, I have had the opportunity to listen to the words of my colleagues and reflect upon the great debate that unfolds each and every day—as it has always done throughout our Nation's history—in this, the greatest deliberative body in the world.

We come to this Chamber from every State in the Union—Democrats, Republicans, and Independents alike. Each of us carries the solemn responsibility of giving voice to the concerns of those we represent. Although we do not always agree, as the debate on this floor will often show, I am always struck by the passion that drives each and every Senator to stand in this singular place in the world and to speak their mind. It is this passion that will always define this Chamber for me. For all the weight of history—for all the great and eloquent sentiments that have been expressed by our forefathers—on a fundamental level this remains a very human place.

We stand today, as the Members of this body have done frequently throughout our great Republic's history, at a critical moment. Partisanship and obstructionism threaten to somewhat paralyze this great institution. But it is a testament to the inherent wisdom and durability of the Senate—of the rules and the tradition that govern this institution—that even in the face of great discord we have had the high privilege of serving in the most productive Congress in generations.

Despite our many differences, I believe the men and women who make up this Senate remain its greatest strength. It has been the honor of my lifetime to once again represent the people of Illinois and to do so in the Senate. First, as a cabinet member for our Governor, as the Illinois State comptroller, and as Illinois attorney general, the people of my State placed in me a sacred trust and one that throughout my 30 years in public service I made into my life's work: to serve the people of my State to the very best of my ability.

In my younger years, shortly after graduating from law school at Howard University, not far from where we stand today, I was turned off by a city with far too much government. I headed to Chicago, convinced that I would not return to this city unless I could be an effective and meaningful part of the solution to the many challenges we face and dreaming of a time I might come back to Washington as a Senator or as Vice President of the United States.

That dream took longer to achieve than I could have imagined that day, but in a towering testament to the vibrancy of the American dream, that day came. After decades of experience in the executive branch of Illinois government, I was sworn in as a Senator for Illinois, and this became my first introduction to serving as a legislator. It was the steepest of learning curves, but with the warm assistance of my Senate colleagues, the steady support of my loving family, and the dedication of my tireless staff, I could not be more proud of what we have been able to accomplish together.

To my family, my friends, and my staff I owe the deepest thanks. My wife Berlean has always been by my side, and I will always be grateful beyond words for her constant support. My son, Roland II and his wife Marty, and my daughter Rolanda are the pride and joy of my life. Of course, they were just here yesterday, my two grandchildren, Roland Theodore and Ian Alexander, to whom I dedicate my service and for whom I have the greatest hopes and even greater expectations.

To my friends and supporters from Chicago to Centralia, I will never forget your smiles and your kind words during even the most difficult of times. To my staff, in DC and those in Springfield, Moline and Carbondale, you have been some of the most dedicated, talented, and professional individuals with whom I ever had the privilege to serve. From the front office staff assistants and interns answering the endless ringing telephones, to my circle of senior advisers who gave me wise and thoughtful counsel throughout, my team has been indispensable to me, and they have all served the people of Illinois with distinction. I am deeply grateful for their service.

Madam President, I ask unanimous consent that the complete list of my staff be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BURRIS. Thank you, Madam President.

I wish to extend a special word of gratitude to my old friend who is sitting right there, the Sergeant at Arms, Terry Gainer; the Secretary of the Senate, Nancy Erickson; the secretary for the majority—where did she go—Lula Davis; for their many kindnesses, and a thank-you to the Senate Chaplain, Dr. Barry Black, for his counsel and prayers during my time here.

I also wish to acknowledge my fellow freshman Senators: Senators BEGICH, BENNETT, FRANKEN, GILLIBRAND; the Presiding Officer, the North Carolinian, Senator HAGAN; as well as Senators MERKLEY, SHAHEEN, MARK UDALL, TOM UDALL, MARK WARNER, and our just departed Senator Kaufman from Delaware. They are tremendous individuals possessing incredible talents and have been a very supportive group

for me. Thank you, my freshman colleagues.

In a broader sense I wish to also thank all of those who serve under this hallowed dome with quiet and often unheralded dignity and duty. The Senate floor staff, you all do a heck of a job—the maintenance crews, the elevator operators, the Capitol Police, the Senate train drivers, the dining room servers, and the scores of others whose hard and important work ensures the smooth and constant operations of the business that takes place within our Capitol.

As I stand to address this Chamber for the last time, I cannot help but reflect on the unlikely path that led me to this point and upon the challenges we continue to face. When I first came to the Senate nearly 2 years ago, our Nation was only days away from inaugurating an African-American man from Chicago as the 44th President of the United States of America. It was a national milestone I never thought I would ever live to see, an incredible moment that speaks volumes about the progress our country has made even in my lifetime.

As a child, I knew the injustice of segregation. When I was only about 15 years old, I helped integrate the swimming pool in my hometown of Centralia, IL. Although that incident drove me to pursue a life of public service—dedicating myself to the goals of becoming both a lawyer and a statewide elected official—there was never any guarantee that such a path would be open to me. There were no people of color in elected office in those days, especially not in Illinois and not in Centralia, and there was no path to follow. So I knew from the start that I would have to blaze a trail.

Despite the lack of established role models, my parents provided nothing but support and encouragement. They nurtured my dreams and helped me develop the skills to achieve them. In the end, they and my older brother Earl, who is now deceased, and my sister Doris, God bless her, who is still living, were the only role models I needed. The values they instilled in me—of hard work, determination, and unwavering dedication to principle—have guided me throughout my life, and the same values have driven me to take an interest in the next generation.

It is that focus on the future that drives all of our legislative energy, to constantly improve the quality of life for the generations to come.

Not too many generations ago, my family roots told a different story. I stand in this Chamber as the great-grandson of a man who was born into slavery, in an era when this Senate debated whether he and others like him were worthy of freedom and equal treatment under the law. Yet today I stand among my colleagues on the Senate floor, a Member of the highest body of lawmakers in this land. In some ways, this is a remarkable testament to our Nation's ability to correct the

wrongs of generations past, to move always toward that “more perfect Union.”

However, in other ways, it is a solemn reminder of how far we still have yet to go. In a country as progressive and diverse as any on this planet, I am today the only Black American Member of this Senate. Aside from myself, I can count the number of Blacks who have served in this body on the fingers of a single hand: Blanche K. Bruce, Hiram Revels; Edward Brooke, the last from Illinois, Carol Moseley-Braun, and our President, Barack Obama.

Throughout 220 years of Senate history and 111 Congresses, only six Black Americans have been able to serve. This is troubling in its own right. But when the 112th Congress is sworn in this coming January, there will not be a single Black American taking the oath of office in this Chamber.

This is simply unacceptable. We can and we will and we must do better. In this regard, and in others, our political process has proven less successful and less representative than it ought to be. Although I have never allowed my race to define me, in a sense it has meant that my constituency as a Senator has stretched far beyond the boundaries of Illinois.

Letters, e-mails, and telephone calls have poured in to my office from Black Americans from all across the country, and at times, as I have tried to bring their voices to this Chamber, I have acutely felt the absence of any other Black person to represent them.

Our government hardly resembles the diverse country it was elected to represent. Partisan bickering has driven moderates out of both parties and made principled compromise more difficult for those who remain. Too often our politics seem to have become a zero-sum game. It is easy for people to believe that the best argument or the plainest truth would not necessarily win the day anymore. In such a destructive political environment, people are often left wondering who will speak up for them. And the media certainly isn't blameless. News outlets which could play a critical role in educating the American public with facts too often bow to ratings or quick sales and, in the process, end up choosing to pursue the entertainment value of conflict over thoughtful analysis.

This is the harsh reality we face.

America just can not afford this any longer. We should check these notions at the cloakroom door.

This is a critical moment.

So I believe it's the responsibility of everyone in this chamber to take ownership of this process once again, to demonstrate leadership, and pledge a return to more responsible rhetoric, and more responsive government.

What we face is a test—not only of our willingness to meet the challenges we face, but of the democratic institutions designed to cope with these challenges.

Here in the U.S. Senate, this question is paramount.

Have our destructive politics left this great body locked in a stalemate—unable to move forward, because of the petty obstructionism that has taken root?

Or can this Chamber be made to address these problems once again? Can it be redeemed, by the good people who serve here?

I have confidence that it can.

It will require the concerted effort of all one hundred Senators to overcome the partisanship that has paralyzed this chamber, and the obstructionist tactics that have become the rule rather than the exception.

Colleagues, this is the moment to summon the strength of our convictions, and fight for what we believe in.

This is the hour for principled leadership, originating right here in the U.S. Senate.

But even as we look to the future and debate the agenda for the upcoming year, I must note with regret that my time here is nearly at an end.

Serving as a Member of this body, alongside so many fine colleagues who have become good friends, has been the honor of a lifetime.

Together we have achieved passage of the most ambitious legislative agenda since the Great Depression. And a great deal of the credit for our success is owed to Leader HARRY REID.

And I am proud of every vote I cast in the name of the people of Illinois, and proud of the more than the 60 bills I sponsored and over 300 I have cosponsored.

In the 22 months I have been a Member of the Senate, I have advocated for comprehensive health care reform designed to meet the goals of a public option, and fought to address health care disparities that separate minority communities from the population as a whole; pushed for redirection of subsidized funds that made \$68 billion available for new Pell grants and extended new opportunities for minority students to attend historically Black colleges and universities, and predominantly Black Institutions; stood up for minority-owned businesses, and made sure they will have equal opportunity to share in America's renewed prosperity as our economy continues to recover; worked hard to extend unemployment insurance, improve access to COBRA benefits, and create jobs for the people of Illinois and across the country; voted for the sweeping stimulus package that brought this country back from the brink of economic disaster and started us on the road to recovery; introduced legislation that would improve transparency and accountability as stimulus dollars are spent, so the American people can keep their elected officials honest; cosponsored legislation to repeal the military's discriminatory don't ask, don't tell policy, so all of our soldiers, sailors, airmen and marines can serve openly and had a press conference on that.

I say to my colleagues, don't filibuster that issue. We need all of our in-

dividuals to have an opportunity to serve in the military service, regardless of their sexual orientation. Don't be surprised if I come back for that vote. I am from Chicago, and I will vote twice. I supported major credit card reforms, to prevent credit card companies from abusing their customers; fought for equal pay and benefits for women, to cut down on workplace discrimination; fought for additional impact aid funding, to shore up federal support for school districts that serve military communities and other Federal activities; honored the accomplishments of pioneers like Vice Admiral Samuel Gravely, the first African American to serve as a flag officer in the Navy, and the Montford Marines, the first African-American Marine division; supported the Matthew Shepard Act, which will help make sure those who target people based on sexual orientation, race, or other factors are brought to justice; raised my voice on behalf of Main Street, and all those who have been left behind in our continuing economic recovery, so that everyone can share in the benefits; introduced legislation calling for the Department of the Interior to study a historic site called New Philadelphia, IL—the first settlement founded by a freed African-American slave—for its preservation as part of the National Park system.

I hope, as a legacy to BURRIS, that someday that legislation will pass.

I raised awareness of youth violence, which threatens our children and tears our inner cities apart—and must be stopped; fought for veterans' benefits, including the implementation of the new GI bill, so we can honor the service of those who defend our freedom.

And now, as we ready to close the books on the one hundred and eleventh Congress and the long and significant chapter of legislative accomplishment, it is time for a new class of Senators to join this fight.

I am deeply grateful to my friends on both sides of the aisle for the passion they bring to their work every day.

I have witnessed it from the Presiding Officer's chair—and have had the privilege not only to watch the debate but to take part.

But now it is time for me to find new ways to serve.

This is the arena where great ideas are put to the test, on a national stage. This is where our identity is forged anew, every day, and where our principles are challenged.

It is the heart of our democratic process. And although there will be few easy solutions for the problems we face, I will never forget the courage and patriotism that I have seen from countless citizens of Illinois and America over the course of my time here.

This is a trying time for our Nation. But as long as the American people have the wisdom to elect leaders like the ones I have come to know in this Chamber—and as long as this Senate remains true to the people we serve—I

will never lose faith in our ability to overcome these challenges together.

These are my parting remarks from this body. I treat this as an opportunity of a lifetime, and I treat this with great respect and dignity for all of those I have worked with and have come to know in this body.

With that, I thank the Chair, I thank all my colleagues, and I yield the floor for the final time. God bless you all. Thank you.

#### EXHIBIT 1

OFFICE OF SENATOR ROLAND W. BURRIS STAFF LIST

#### WASHINGTON DC OFFICE

Dori Alexandre, Legislative Aide; Roosevelt Barfield, Military Legislative Assistant; Eleanor Bastian, Legislative Assistant; Charles Brown, Legislative Assistant; Nicholas Catino, Legislative Aide; Nate Davern, Legislative Aide; Cynthia Dorsey, Intern Supervisor; Amanda Fox, Legislative Assistant; Joel Griffith, Staff Assistant/Driver; Cristen Hall, Counsel/Legislative Assistant; Giana Hutton, Staff Assistant; Renee Johnson, Legislative Aide; Andy Keeney, Correspondence Manager; Brady King, Chief of Staff; Ursula Lauriston, Deputy Press Secretary; Ken Montoya, Legislative Director; Kyle Moore, Military Fellow; Terry Mullan, Legislative Aide; Robin Nichols, Director of Scheduling; Jim O'Connor, Communications Director; Ford Porter, Legislative Aide; Aleysha Proctor, Administrative Director; Shomalla Sharif, Deputy Administrative Assistant; Stephan Tibbs, Special Assistant.

#### CHICAGO OFFICE

Rachelle Badem, Grant Coordinator/Special Assistant; Matt Berry, Outreach Rep.; Jacqueline Dawkins, Constituent Service Agent/Outreach Rep.; Scott Kagawa, Outreach Rep.; Rodney LaBaux, Staff Assistant; Jazmine Hasty, Small Business Outreach Rep.; Frank S. McClatchey, Small Business Coordinator; Myron McGee, Constituent Service Agent/Outreach Rep.; Kristina Michell, Constituent Service Agent; Jason Miller, Constituent Service Agent; Richard Porter, Director of Outreach; Chris Russo, Special Assistant; Kenneth Sawyer, State Director; Tami Stone, State Scheduler; Audrey Till, State Press Secretary; Zorie Valchev, Constituent Service Agent; Erin T. Williams, Assistant to State Director; Marianne Wolf-Astrauskas, Office Manager/Intern Coordinator.

#### SPRINGFIELD OFFICE

Ceceilia Haasis, Constituent Service Agent; Jamar Johnson, Constituent Service Agent; Sally Millichamp, Constituent Service Agent; Bradley Smith, Constituent Service Agent; Jimmie Voss, Downstate Director.

#### CARBONDALE OFFICE

Dina Timmons, Field Rep./Constituent Service Agent.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

Mrs. HAGAN. Mr. President, as I see my colleague, Senator BURRIS, still on the floor, I wish to thank him for his excellent work and his comments today. He will certainly be missed by all of us.

Mr. BURRIS. I thank the Senator from North Carolina.

Mrs. HAGAN. Mr. President, today I rise in support of S. 510, the FDA Food Safety Modernization Act, and also in support of an amendment I cosponsored with my colleague from Montana, Senator JON TESTER.

Each year, upwards of 70 million Americans are sickened from foodborne illnesses. Thousands of the most vulnerable, including children and the elderly, die. I do not think there is anyone who has not heard of the massive recall of millions of tainted eggs that sickened nearly 1,500 people. We need to find a better way to protect Americans from these tragic deaths.

During the HELP Committee's consideration of the bill late last year, we had the opportunity to hear from Dan Ragan, director of the North Carolina Department of Agriculture and Consumer Services Food and Drug Protection Division, about the innovative steps that North Carolina is taking to prevent and address food safety problems. North Carolina was one of the first pilot States for the Manufactured Food Regulatory Program Standards, MFRPS. And North Carolina has a robust training program for those dealing with food safety issues. I am proud that my State is leading the way forward in trying to prevent and quickly address foodborne illnesses.

At the same time, North Carolina is a farming State. And in my State, we have honest farmers who work very hard to make a living. Unfortunately, oftentimes when there is a food safety breach followed by a massive recall, the producers or farmers suffer dire financial consequences. Farmers are at the front of the food supply chain and frequently are not responsible for the food safety breach further down the line.

Many farmers in North Carolina are still struggling, particularly after the salmonella outbreak at the Peanut Corporation of America and after the massive recall of tomatoes nationwide in 2008.

One such farm is Patterson Farms, a third generation family-run farm in China Grove, NC. The family has been growing tomatoes since 1919 when James A. Patterson began growing vegetables.

Currently, Patterson Farms, Inc., operated by James A. Patterson's grandsons, Doug and Randall, grows about 350 acres of tomatoes, including mature green, vine ripe, and Roma tomatoes. In addition to growing tomatoes, the Pattersons grade, pack, and ship their tomatoes across the United States and Canada. Patterson Farms is currently the largest tomato grower in the State of North Carolina.

The 2008 erroneous safety citation for tomatoes by the Food and Drug Administration cost the Pattersons dearly. While consumer demand for tomatoes dropped between 50 and 60 percent, Patterson Farms lost hundreds of thousands of dollars. The damage was so severe that Doug and Randall could not pay back their farm operating loan at the end of the year—marking the first time in the history of Patterson Farms

that they were not able to pay back their operating loan.

In fact, they had to borrow more money to stay in business. With very narrow profit margins, the massive recalls such as this certainly can jeopardize the financial stability of farms that have been in families for generations. That is why I think the FDA needs to be very sure about the source of a foodborne illness when it institutes a recall, and why I fought hard to include a provision in this bill to look at new and existing mechanisms available to provide restitution.

Specifically, the language in this bill directs the GAO to conduct a review within 3 months on new and existing mechanisms available to provide restitution in the event of an erroneous mandatory food safety recall. If such mechanisms do not exist or are inadequate, then within 90 days the Secretary of Agriculture must conduct a feasibility study on implementing a restitution program.

One false recall can put a family farm out of business. And while I support giving the FDA mandatory recall authority, I want to make sure there are enough protections in place for farms such as the Patterson farm, which were brought to the brink of bankruptcy through no fault of their own. This study language is an important step in ensuring that farmers are treated fairly.

I am also pleased to be a cosponsor of the amendment by my colleague Senator TESTER, which will be included in the final bill. While I believe strengthening our food safety standards and giving FDA the enforcement authority it needs is critical to ensuring public safety, this bill would have imposed Federal regulation on even the smallest food producers, including family farms.

Take, for example, a small family farm in North Carolina that produces homemade jams and jellies to sell on their farm, at the farmers market, or to the local food co-op. This farm would have to register with the FDA and develop a costly hazard analysis and risk-based preventive control plan, similar to the plans required of large food companies. Small producers in North Carolina already have to use a North Carolina Department of Agriculture-approved commercial kitchen to make these products.

To allow small producers to remain in business, this amendment ensures that the smallest producers selling directly to consumers can continue being regulated at the State level. Also, farmers raising produce to sell directly to consumers at farmers markets and food co-ops face significantly different issues and pose less risk than those selling into the industrial supply chain, and should not be regulated in the same way.

North Carolina is a farming State, and I value farming as an institution that is central to my State and America's history and our culture. In my

State we have honest farmers who work very hard to make a living.

I believe, with the restitution study language, and with the adoption of the Tester-Hagan amendment, this food safety bill strikes the right balance between protecting the public health from foodborne illnesses while ensuring our Nation's farmers can continue to feed Americans.

# RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3 p.m.

Thereupon, the Senate, at 12:33 p.m., recessed until 3 p.m. and reassembled when called to order by the Presiding Officer (Mr. FRANKEN).

## FDA FOOD SAFETY MODERNIZATION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Oklahoma.

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

The PRESIDING OFFICER. The Senate is not in a quorum call right now.

Mr. COBURN. Oh, very good. Then I withdraw my request and ask that I might be recognized.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COBURN. Thank you, Mr. President. I wish to spend a few minutes discussing the bill that is before us. Having been a manufacturing manager for 10 years, producing products that came through the medical device industry, and having dealt with the FDA as a manufacturer and then having dealt with the FDA and the consequences of the FDA as a physician over the last 25 years and then looking at this bill that is on the floor today, I think it addresses three things I have talked about, especially in Oklahoma over the last year.

Everybody recognizes this Nation is at a critical point—fiscally, internationally. From the standpoint of foreign policy, it has been impacted by our fiscal problems. But there are three structural reasons why I think we are there, and I think we need to learn from them. This bill provides us a great example.

The first is, as a physician—and I knew it as a business manager—you have to fix real problems. If you fix the symptoms that have been created or the circumstances that have been created by the real problems, you will make things better for a while, but you actually will not solve the underlying problem. What happens when you do not solve the underlying problem and fix the symptoms is, you delay the time and you also increase the consequences of not fixing the real problems.

Second, if you only think short term, you do not have the planning strategy with which to do the best, right thing

in the long term. We consistently do that in Washington. Consequently, the CBO put out the unfunded liabilities for Medicare, Medicaid, and Social Security yesterday. It is now \$88.9 trillion. It was \$77 trillion last year. It was \$63 trillion the year before. So we are up \$26 trillion in unfunded liabilities that we are going to pass on to our kids in 3 years because we continue to think short term instead of long term.

Then, the fourth thing is to have the courage to stand and say: No, we should not do things that address the symptoms; we should address the underlying problems. No, we should not think short term or parochially; we should think long term and address that issue.

As to the food safety bill, all my colleagues are very well intended in terms of what they are trying to accomplish with it. But there are some facts we ought to be realistic about. We could spend \$100 billion additionally every year and not make food absolutely safe. There are diminishing returns to the dollars we spend. But if you look at what the case is: In 1996, for every 100,000 people in this country, we had 51.2 cases of foodborne illness—the best in the world, by far. Nobody comes close to us in terms of the safety of our food. But, in 2009, we only had 34.8 cases—three times better than anybody else in the world. So the question has to be asked: Why are we doing this now when, in fact, we are on a trendline to markedly decrease it? The second question that should be asked is: No matter how much money we spend, is there a diminishing return?

There are a lot of things in this bill that I agree with—a lot. I think foreign food ought to be inspected before it comes into this country and I think those who want to sell products in this country ought to have to demonstrate the quality of it and I think the cost of that ought to be on the person selling the food, not on the American taxpayer. But ultimately that cost will be added to the cost of the food.

I think the recognition of peanut allergy is a realistic one, and I understand the purpose for wanting a grant for that. But as I read the Constitution, that is a State function. That is not our function. The other thing that bothers me about the grant proposals—I walked out of the deficit commission to come over here. I have spent 8 months in that commission looking at the problems in front of this country. We cannot afford another grant program. We do not have the money.

So we can say we are going to authorize it in this bill, but, do you know what, it is not going to get funded next year because we do not have the money. When the interest rates skyrocket in less than a year from now because of our misplaced spending over the past 20 years and our continued short-term decisionmaking instead of long-term decisionmaking, our situation is going to grow even darker. So this bill provides a wonderful example

of how we ought to fix the real problems instead of the symptoms of the problems.

The other thing that truly is not addressed is the long-term criticisms the GAO has continually made on our food safety. Senator HARKIN has the best idea of all, but he could not get everybody to do it; that is, an independent food safety agency, to where we are not relying on the CDC, we are not relying on the FDA, we are not relying on the Department of Agriculture, that we put them all into one and say: You are responsible for food safety. But he could not sell that.

Ask yourself the question: If you had three different agencies stepping all over each other with different sets of rules with agreements between themselves that they will do certain things, and then they do not do them—that, by the way, is why we had the salmonella problem; they did not follow their own protocols to notify the FDA of the problem—most commonsense thinking people would say: Well, maybe you ought to put all those things into one agency, with one boss and one line of accountability and responsibility.

So Senator HARKIN is absolutely right in where he wants to go. We are going to spend \$1.5 billion over the next 5 years on this bill that does not accomplish what we need to accomplish, which is what Senator HARKIN wants to do—and he is right—and we are not going to fix the criticisms that have been leveled against the agencies by the GAO for 8 years, in spite of the fact, as I stand here and am critical of different agencies, they actually have done a very good job. That is known by the fact that our incidence of foodborne illness is now less than 34 per 100,000 people. Think about that. Think about all the sources of food we get in this country and the diverse places they come from. Yet only 34 people get a staph poisoning or a nontoxigenic *E. coli* poisoning or a salmonella poisoning or a *Yersinia* poisoning or a *Shigella* poisoning in a year. So that is the incidence of illness.

The question is, How do we stop the 10 or 20 deaths a year from foodborne illness? Can we do that? Well, as a physician trained in epidemiology, we could do it. But I will posit we do not have the money to do that because it would take billions upon billions upon billions of additional dollars to ever get there. So we find ourselves in a dilemma.

I commend to my colleagues the reports GAO-09-523, GAO-09-873, and GAO-05-213.

The GAO does a wonderful job telling us where we are failing, and we ought to address everything they raised in these reports.

Even further than that, Dr. Hamburg, around the time we were having the salmonella with the eggs problem, released an egg standard. The bureaucracy took 11 years to develop that standard. That falls on the shoulders of President Bush's administration as