

Chamber and is designed to strengthen the country's ability to address and hopefully prevent foodborne illnesses.

I realize the bipartisan road is not always easy to follow, but I can confidently say when we approach legislation in this manner we often end up with a better, stronger, and more responsive law in the end. I think this bill is an example of that. It was not always easy. We had our differences, obviously, but we overcame them in an effort to respond to an issue that impacts all Americans regardless of political affiliation and economic circumstance; that is, again, foodborne illnesses.

This collaborative process is not limited to Members and staff. I am including outside advocates and organizations. In fact, an impressive range of constituent groups, including the Consumers Union and the Grocery Manufacturers Association, have provided valuable input in support during this process. Looking at the list of groups which support this bill says a great deal about the product itself. It says we cannot afford to ignore the topic of food safety any longer. It says our industries and consumers want to see good consistent policy in place to help prevent, and when they do occur, address these illnesses.

We have all heard the statistics. On average, 76 million Americans are sickened each year, and 5,000 die each year because of foodborne illnesses. But these are not just numbers. These are the lives of our fellow citizens in every region and economic group in the Nation. As the recall of a half billion eggs this summer due to *Salmonella* contamination has shown, foodborne illness is something that can impact a significant portion of our population at any given time.

According to the Centers for Disease Control and Prevention, more than 1,800 people became ill due to these contaminated eggs. Let's not forget that the most vulnerable of our population suffer the most when stricken with foodborne illnesses, especially children.

One such life significantly impacted by a strain of *E. coli* was a constituent of mine in Wilton, CT. She survived the contaminated lettuce she consumed, but her life has been changed as a result.

There is a lot in this bill we can be proud of. I want to focus on one particular area that I have a concern with and have been involved in for years and years—it is food allergies.

Long before I had a family of my own, I got involved in the issue. But with the arrival of my first child, Grace, in 2001, we discovered shortly thereafter that she had serious food allergies. She had been in anaphylactic shock four or five times by the time she was 4 or 5. This is a great concern to her parents, obviously, as it is for millions of people in this country. Twelve million of our fellow citizens have food allergies, many with life-

threatening ones, and we are watching the numbers grow.

According to those who keep these statistics, from 1997 to 2007 the prevalence of food allergies among children increased by 18 percent. Today, approximately 3 million children in the United States are suffering from one kind of food allergy or another. While food allergies were at one time considered relatively infrequent, they now rank third among chronic diseases in children under the age of 18. Peanuts are among the several allergenic foods that can produce life-threatening allergic reactions in children.

With this bill, what we have done here, is to develop a voluntary food allergy management guideline for preventing exposure to food allergens and ensuring a prompt response when a child suffers a potentially fatal anaphylactic reaction. It also provides for school-based food allergy management incentive grants to local educational agencies to assist with the adoption and implementation of food allergy management guidelines in grades K through 12.

My State of Connecticut is one of eight that has already done this on their own. But a lot of other States, obviously, 42 have not. This bill voluntarily provides small amounts of grant money to States to help them develop these procedures that will minimize the kind of dangers that occur to children when they are exposed to food that can cause them life-threatening diseases and illness.

The Food and Drug Administration is responsible for regulating 80 percent of the Nation's food supply. But for too long, the FDA has lacked the resources and authorities necessary to adequately protect our food. This bill recognizes we cannot underfund this critical agency and gives the FDA the tools necessary to protect our food and our health.

In fact this bill establishes, for the first time, a mandatory inspection schedule, which was a priority for many who worked so tirelessly on food safety. Under the provisions of S. 510 the number of inspections conducted by the FDA will increase from 7,400 in 2009 to nearly 50,000 in 2015. Mr. President, we need these inspections. We need to pass this bill.

I am hopeful that my colleagues will recognize the importance of passing the FDA Food Safety Modernization Act. Because every family sitting down to dinner tonight deserves to know that all reasonable measures have been taken to ensure the safety of the food they are eating. It's time we put politics aside for the sake of America's families and get this bill passed.

I want to comment quickly, before my time expires, on the comments of my good friend from Georgia who just spoke, SAXBY CHAMBLISS. This was a difficult bill to put together. I commend my colleague from Montana, JON TESTER, who represents an awful lot of small farmers, small food processors.

Putting this bill together required compromise. It is what we do in this Chamber every single day, and so had we not included the Tester language in this bill I think we would have had a hard time passing the legislation. The argument would have been: Well, you have included the small truck farmers who, frankly, cannot subject themselves to the kind of rules that large producers of food can, and we would have put the whole bill in jeopardy.

By adopting the modified Tester language, we have made it possible for this bill to become law. So I commend my fellow Senator from Montana for his work. I commend Senator HARKIN, the chairman of the committee, for bringing this all together to the point where, despite all of the allegations that this body cannot come to a common agreement on a matter as important as this one is wrong. We can when we work at it, and we have done so with this bill.

I urge my colleagues to be supportive of this very important and historic piece of legislation.

I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

#### CERTIFICATE OF ELECTION

The VICE PRESIDENT. The Chair lays before the Senate the certificate of election to fill the unexpired term for the State of Illinois. The certificate, the Chair is advised, is in the form suggested by the Senate.

If there be no objection, the reading of the certificate will be waived, and it will be printed in full in the RECORD.

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

STATE OF ILLINOIS

Executive Department

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to Certify that on the Second day of November, Two Thousand and Ten, Mark Steven Kirk was duly chosen by the qualified electors of the State of Illinois a Senator for the unexpired term ending at noon on the third day of January, Two Thousand and Eleven, to fill the vacancy in the representation from said State in the Senate of the United States caused by the Resignation of then-Senator Barack Obama.

Witness: His Excellency Our Governor, Pat Quinn, and our seal hereto affixed at the City of Springfield, Illinois, this Twenty-Third day of November, in the year of our Lord Two Thousand and Ten.

By the Governor:

PAT QUINN,

Governor.

JESE WHITE,

Secretary of State.

[State Seal Affixed]

# ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senator-elect will now present himself at the desk, the Chair will administer the oath of office.

The Senator-elect, MARK KIRK, escorted by Mr. DURBIN and Mr. Fitzgerald, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations, Senator.

(Applause, Senators rising.)

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## FDA FOOD SAFETY MODERNIZATION ACT—Continued

Mr. HARKIN. Mr. President, in about 35 minutes we are going to be voting on cloture on the food safety modernization bill, a bill that brings us forward almost 70 years. Seven decades it has been since we have modernized or changed our food inspection and safety system in America. So we are taking that step tonight. Hopefully, we will have a final vote on it by tomorrow.

I just want to take a few minutes now before that vote to again lay out why this bill is so important and why we need to invoke cloture tonight so we can have a final vote on this bill tomorrow.

First of all, the statistics are that Americans are getting sick and they are dying because of foodborne illnesses. You would think in this day with modernization and such we would not have this.

Madam President, 325,000 Americans every year are hospitalized and over 5,000 die. Many of these are kids. I have met them with a group called Safe Tables Our Priority. I have met some of these kids. They will be damaged for life, I say to my friend from Illinois, Senator DURBIN, who has been such a leader on this bill. In fact, I daresay we would not be here were it not for Senator DURBIN's leadership in getting this bill started, how many years ago I do not know.

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

Mr. HARKIN. I would be glad to yield.

Mr. DURBIN. First, I thank the Senator from Iowa for his leadership on this issue. The fact is, it was almost 18 years ago when I received a letter from a woman in Chicago—written to me as a Congressman—named Nancy Donley.

Nancy had a personal tragedy. Her 6-year-old son Alex died from E. Coli from food Nancy literally prepared for him in their home. She wrote to me a handwritten letter, to me as a Congressman from Springfield, IL, 200 miles away, saying we have to do something about food safety.

Nancy lost her son, but she never lost her passion for this issue. As the Senator said, she formed the organization Safe Tables Our Priority, which has been an effective voice for so many others to bring us to this moment.

But, for the record, I have worked on this issue for a long time, and we would not be on the Senate floor tonight with this historic vote were it not for the Senator from Iowa who has led the effort. Senator TOM HARKIN has, with the help of Senator MIKE ENZI and a number on the other side of the aisle who have stepped up to make this bipartisan. This is a reasonable approach to making our food safer in America. I thank the Senator from Iowa for all of his leadership on this issue and so many others.

Mr. HARKIN. Well, I thank my friend from Illinois, but he is being way too generous. Again, I recognize the instigators of this, the ones who started this ball rolling, and Senator DURBIN is the one who got us started many years ago. And it has taken us many years to put this together. But that is why we have such a good bipartisan bill. We have worked on this. We reported this out of our committee a year ago without one dissenting vote, Republican or Democrat. Since that time, we have been working to get other people, not on the committee, obviously, onboard to get the way paved so we could have a bill that would be broadly supported.

This bill is very broadly supported, both by the industry and by the consumers. It is one of the few bills where, as a matter of fact, we have a wide range of consumer and industry support, everything from the Snack Food Association, the Grocery Manufacturers Association, Consumers Union, Center for Science in the Public Interest, the U.S. Chamber of Commerce, U.S. Public Interest Research Group. Anytime you get the Chamber of Commerce and the U.S. Public Interest Research Group on the same bill, you know you have a bill that has broad support. This bill does.

Again, I thank my colleague, Senator ENZI from Wyoming, our ranking member on our committee, for all of his help in getting this bill through and working on it diligently over the past year.

I would be remiss if I did not also thank Senator GREGG and Senator BURR for being heavily involved in this bill and working through all of the compromises a bill like this entails.

The Food Safety Modernization Act enhances our food safety system in three critical ways. It improves the prevention of food safety problems. I always think this is key. We have to get in front of this, not to just sort of

catch the food once it is contaminated and try to get it done, but to try to prevent it in the beginning. We had success in the meat and poultry industry some years ago with a preventive plan to look at where pathogens could enter the food supply and stop it there. We have applied the lessons we have learned from those last 20, almost 25 years now of that to this, so now we are going to be able to look to have a better system of preventing food safety problems and foodborne pathogens.

It improves the detection or response to foodborne illness outbreaks—detect it earlier, stop it earlier, and have a better response to what is happening. In other words, for example, in the bill we provide that retailers have to in some way notify customers if a food has been recalled. That could be a grocery store putting a sign on the shelf, for example, saying: This food has been recalled, maybe putting out a notice in their supplements that they put out in order to advise consumers they may have purchased a food that has been recalled.

Third, it enhances our Nation's food defense capabilities. Right now, how many people know that less than 2 percent—about 1.5 percent—of all of the food imported into America is ever inspected? That is 1.5 percent. Well, this is going to increase those inspections. It is also going to increase the defense capabilities in case we have a problem. For example, we have stronger traceback authority so we can get to the source of where this happened in a better way than we ever have been able to do in the past.

As I mentioned earlier, it provides the FDA with mandatory recall authority. A lot of people are surprised to know—consumers are surprised to find out that if there is a foodborne illness or outbreak, the Food and Drug Administration has no authority to even recall the food. One may say: Well, the companies have the authority to recall it—and they do because, frankly, they don't want to get sued, obviously. So why have a mandatory recall? Well, you might have bad actors. You might have a company that is located offshore. Maybe they have imported some bad food into this country, and maybe they think they can just take a few bucks and run. The FDA would not have mandatory recall authority. Now they would have that to protect our consumers. As I said, it also requires the retailer to notify consumers if they sold food that has been contaminated.

Now, again, the opponents of this bill have put a lot of rumors out there. Since I have lived with this bill for so long, I am surprised people would be saying things like this. One myth I read is that this bill would outlaw home gardens—you couldn't even have a home garden. I think that comes from Glenn Beck, if I am not mistaken, but it is factually incorrect. It said it would do away with family farms. In