

more than FDA requires. That decision is part of a private contractual relationship. This bill does not affect these arrangements. They will continue to exist and will limit the application of any exemptions provided in this bill.

Third, processors that want to be exempted will have to document that they meet the exemption. There are two ways to do that. First, they must show they are in compliance with State law or second, they must show that they have completed a food safety plan of their own. Many processors will simply decide that for competitive reasons or lack of capacity they will simply stick with whatever FDA requires. This is another pragmatic limitation on the Tester provisions.

Fourth and finally, FDA is specifically authorized to take action and revoke an exemption if it determines that the food presents a public health risk, and FDA can act to prevent an outbreak if needed. This provision creates a “one-strike-you are out” exemption: once a farm or food processing facility has lost its exemption, it may never be reinstated.

Mr. President, it is not the intent of this legislation to include in the definition of “facility,” for purposes of either FFDCFA Sec. 415 or for the pending bill, seed production or storage establishments as long as they do not manufacture, process, pack, or hold seed reasonably expected to be used as food or feed. Further, we note that seeds not used as food or feed have historically not been subject to oversight by FDA.

The PRESIDING OFFICER. Under the previous order, amendment No. 4715 is agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that after adoption of the substitute amendment to S. 510 and now, after the third reading, the Senate then proceed to Calendar No. 74, H.R. 2751; that all after the enacting clause be stricken and the text of S. 510, as amended, be inserted in lieu

thereof; that no further amendments or motions be in order; that the bill, as amended, be read a third time, and after the reading of the Budget Committee pay-go letter, the Senate then proceed to vote on the passage of H.R. 2751, as amended; further, that the title amendment, which is at the desk, be considered and agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the clerk will read the pay-go statement.

The legislative clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for S. 510, as amended.

Total Budgetary Effects of S. 510 for the 5-year statutory PAYGO Scorecard: \$0.

Total Budgetary Effects of S. 510 for the 10-year Statutory PAYGO Scorecard: \$0.

Also submitted for the Record as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR SENATE AMENDMENT 4715 IN THE NATURE OF A SUBSTITUTE TO S. 510, FDA FOOD SAFETY MODERNIZATION ACT

	By fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Statutory Pay-As-You-Go-Impact ^a	0	0	0	0	0	0	0	0	0	0	0	0

^a S. 510 would increase federal efforts to ensure the safety of commercially distributed food. S. 510 would stipulate that the failure to comply with new requirements, such as mandatory recalls and risk-based preventive controls, could result in the assessment of civil or criminal penalties. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund, and later spent. Enacting S. 510 could increase revenues and direct spending, but CBO estimates that the net budget impact would be negligible for each year.
Source: Congressional Budget Office.

The ACTING PRESIDENT pro tempore. Under the previous order, the cloture motion with respect to the bill is withdrawn and the question is on passage of S. 510, as amended.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Kansas (Mr. BROWNBACK).

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

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—73

- Akaka
- Alexander
- Baucus
- Bayh
- Begich
- Bennet
- Bingaman
- Boxer
- Brown (MA)
- Brown (OH)
- Burr
- Cantwell
- Cardin
- Carper
- Casey
- Collins
- Conrad
- Coons
- Dodd
- Dorgan
- Durbin
- Enzi
- Feingold
- Feinstein
- Franken
- Gillibrand
- Grassley
- Gregg
- Hagan
- Harkin
- Inouye
- Johanns
- Johnson
- Kerry
- Kirk
- Klobuchar
- Kohl
- Landrieu
- Lautenberg
- Leahy
- LeMieux
- Levin
- Lieberman
- Lincoln
- Lugar

- Manchin
- McCaskill
- Menendez
- Merkley
- Mikulski
- Murkowski
- Murray
- Nelson (NE)
- Nelson (FL)
- Pryor
- Reed
- Reid
- Rockefeller
- Sanders
- Schumer
- Shaheen
- Snowe
- Specter
- Stabenow
- Tester
- Udall (CO)
- Udall (NM)
- Vitter
- Voinovich
- Warner
- Webb
- Whitehouse
- Wyden

NAYS—25

- Barrasso
- Bennett
- Bunning
- Chambliss
- Coburn
- Cochran
- Corker
- Cornyn
- Crapo
- DeMint
- Ensign
- Graham
- Hatch
- Hutchison
- Inhofe
- Isakson
- Kyl
- McCain
- McConnell
- Risch
- Roberts
- Sessions
- Shelby
- Thune
- Wicker

NOT VOTING—2

- Bond
- Brownback

The bill (S. 510), as amended, was aged to.

Mr. HARKIN. Mr. President, I move to reconsider the vote and move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

PASSAGE OF S. 510

Mr. HARKIN. Mr. President, today with the passage of the Food Safety Modernization Act by this overwhelming vote of 73 to 25, we have taken momentous steps to help strengthen food safety in America. The Food Safety Modernization Act will bring America's food safety system into the 21st century.

This bill gives the FDA the authority the agency needs to help protect America from foodborne illnesses. While this bill is a historic step forward in ensuring that our food supply is safe and protecting Americans from foodborne illnesses, we have to now ensure that the FDA has adequate resources to fulfill their profound responsibilities.

I look forward to working with my colleagues on the Appropriations Committee and the entire Senate to ensure that they have the necessary resources to fulfill the provisions of this legislation.

As the primary cosponsors of the bill, Senators DURBIN and GREGG deserve a great deal of thanks for their outstanding leadership. I asked Senator DURBIN when he started working on this bill. He said back in the House 18 years ago. So sometimes it takes a long time to get these things done. But this is the first time in 70 years we have ever had a major revision of our food safety laws. Senator GREGG has also worked at least a dozen years,