

|           |           |            |
|-----------|-----------|------------|
| Hatch     | Menendez  | Sasse      |
| Heitkamp  | Merkley   | Schumer    |
| Hirono    | Mikulski  | Sessions   |
| Inhofe    | Murkowski | Shaheen    |
| Isakson   | Murray    | Shelby     |
| Johnson   | Nelson    | Stabenow   |
| Kaine     | Perdue    | Sullivan   |
| King      | Peters    | Thune      |
| Klobuchar | Portman   | Tillis     |
| Lankford  | Reed      | Toomey     |
| Leahy     | Reid      | Whitehouse |
| Markey    | Risch     | Wicker     |
| McCain    | Roberts   | Wyden      |
| McConnell | Rounds    |            |

## NAYS—24

|            |          |        |
|------------|----------|--------|
| Ayotte     | Grassley | Paul   |
| Booker     | Heinrich | Schatz |
| Boxer      | Heller   | Scott  |
| Brown      | Hoehn    | Tester |
| Capito     | Kirk     | Udall  |
| Collins    | Manchin  | Vitter |
| Daines     | Moran    | Warner |
| Gillibrand | Murphy   | Warren |

## NOT VOTING—5

|      |           |         |
|------|-----------|---------|
| Cruz | McCaskill | Sanders |
| Lee  | Rubio     |         |

The motion was agreed to.  
The PRESIDING OFFICER. The Senator from Oregon.

**GENETICALLY MODIFIED FOOD**

Mr. MERKLEY. Mr. President, today I would like to address a very important issue, which is the right for American citizens to know what is in their food. I am going to be talking about the topic of genetically modified ingredients in food. I will be pointing out that there are genetic modifications that are largely considered to have been beneficial and others that are largely considered to be causing significant challenges. In both cases, there is science to bring to bear around the benefits and there is science to bring to bear around the disadvantages. Ultimately, I will conclude to give a preface here—that this is not a debate about the pros and cons. There is information on both sides, different aspects. What is at debate is whether our Federal Government wants to be the large, overbearing presence in the lives of Americans and tell them what to think, or whether we believe in our citizens' ability to use their own minds and make their own decisions. To be able to do that, they have to be able to know when there are genetically modified ingredients in the foods they are consuming.

Let's start with the point that there are significant benefits from various GM modified plants. One example is golden rice. Golden rice, as seen here, has been modified in order to produce a lot more vitamin A. So growing this in an area where there is a vitamin A deficiency has been beneficial to the help of local populations.

Let's take, for example, a certain form of carrot. It has been modified to produce an enzyme that helps rid the body of fatty substances. When you can't do that, you have Gaucher's disease. We have a lot of trouble with Gaucher's disease, with brain and bone damage, anemia, and bruises. But through the modification of these carrots, there is a solution, and should

you be afflicted with Gaucher's disease, you would be very happy about that.

Let's take another example. These are sweet potatoes that have been modified to resist a number of viral infections common in South Africa. So a place where otherwise you may not be able to grow these sweet potatoes, where the local population might not be able to benefit from nutrition in these sweet potatoes, they can now do so. These are some of the examples of some of the benefits that have come from some forms of genetic modification of plants.

But just as there is science that shows benefits, there is also science showing concerns. I am going to start by explaining that the largest modification in America—the largest deployed modification—is to make plants such as corn, soybeans, and sugar beets resistant to an herbicide called glyphosate.

The use of glyphosate has increased dramatically over the last two decades. In 1994 we are talking about 7.4 million pounds—not very much. But by 2012, we are talking about 160 million pounds of this herbicide being put onto our crops.

Well, one's reaction may be this: OK, but is there any downside to that massive deployment of herbicides? Yes, in fact, there is. This herbicide is so efficient in killing weeds that it kills milkweed. Well, milkweed happens to grow in disturbed soil. So it has been a common companion to our agricultural world. Milkweed is the single substance that monarch butterflies feed on. So as the glyphosate expansion has increased over this time period, the monarch butterfly has radically decreased because its food supply has been dramatically reduced. This is not the only factor considered to affect the Monarch butterfly, but it is an example of a significant factor. That is something of which you think: What else could happen in the natural world as a result of changing dramatically the variety of plants that surround our farm fields?

Let's turn to another impact. Millions of pounds of glyphosate go on the fields, and much of it ends up running off the fields and running into our streams and rivers. It is an herbicide. So it has a profound impact on the makeup of organisms in those streams and rivers.

For example, it can have an impact on microorganisms, algae, and things that feed on that up the food chain—fish, mussels, amphibians, and so forth. We don't understand all the impacts of massive amounts of herbicides in our streams and rivers, but scientists are saying: Yes, there is an impact. Studies are underway to understand those impacts more thoroughly. Of course, we care about the health of our streams and rivers.

Let's take another example. Sometimes you just can't fool Mother Nature. One impact of the massive application of glyphosate is that weeds start to develop a resistance to it, and then you have to start to use more of it.

Also, that is true in a different sphere. I am talking about a particular genetic modification that goes into the cells of plants and is designed to fend off the western corn rootworm.

The western corn rootworm eats corn when it is in the larvae stage—that is the worm stage—and it does so when it is in the beetle stage. Some beautiful examples are shown here. It can eat the pollination part of the corn so that the corn doesn't produce healthy kernels as well. It can eat the leaves. It pretty much loves the entire corn plant.

This genetic modification produces a pesticide inside the cell and was in the beginning very effective in killing these corn rootworms. But guess what. Mother Nature has a continuous stream of genetic mutations, and if you apply this to millions and millions of acres and millions of pounds, eventually Mother Nature produces a mutation that makes it immune to this pesticide. Then those immune rootworms start multiplying, and you have to start applying a pesticide again, and maybe you have to apply even more than before because they develop a resistance to it. That is exactly what is happening here. So that is a significant reverberation.

All I am trying to point out here is that this is not really an argument about science. Science can tell us that there have been occasions in which genetic modifications have had an initial beneficial impact, and science will tell us that there are situations in which the reverberations of using the genetically modified plants are having a negative impact. So that is where it stands. It is like any other technology. It can be beneficial. It can be harmful.

So the question is this: Does our government—the big hand of the Federal Government—reach out and say to our cities, our counties, and our States that there is only one answer to this and that is why we are going to ban you from letting citizens know what is in their food. Of course, there is no one answer. We have seen there are benefits and there are disadvantages. Quite frankly, I think it is just wrong for the Federal Government to take away our citizens' right to know. That is why I am doing all I can to publicize this at this moment.

Various States have wrestled on whether to provide information to citizens so that the citizens can decide on their own whether they have a product that has genetically modified ingredients. Most of our food products do because virtually all of our corn, sugar beets, and soybeans are genetically modified, but citizens can look at what type of genetic modification. They can respond and use their minds with information.

This is really what is beautiful in democracy. Government doesn't make up your mind for you. Government doesn't impose a certain framework in which you have to view the world.

Yet, right now, at this very moment, there are a group of Senators in this

body who want to impose those blinders on you, American citizens. They want to tell you how to think. They are supporting a bill that says the Federal Government will take one side of this argument and tell you it is the truth and spend your tax dollars publicizing it. This is the type of propaganda machine that you would expect outside of a democracy but not here in the “we the people” government of the United States of America—not here, where we value our citizens’ ability to make their own choices. So it is very important that we wake up quickly and respond to this, because the simple truth is a group of very powerful companies are working right now to get a bill passed that will take away our citizens’ right to know about GM ingredients in their products. This bill is called the DARK Act, or the Deny Americans the Right to Know Act, and it has passed out of committee. The majority leader has said it is a priority for him to put the DARK Act on the floor of this Senate next week with virtually no notice to the United States of America.

Most of these positions percolate inside committees for a length of time and then get digested on the floor for a length of time. But, no, there is an effort to slam this through—this imposition on the right to know in America. That is just absolutely wrong.

Now let me talk a little bit about how American citizens feel about this. There was a survey done at the end of 2015, just a couple of months ago. This was a nationwide survey of likely 2016 election voters done in November of 2015.

The question that was asked of the participants was this: As you may know, it has been proposed that the Food and Drug Administration, or the FDA, require foods that have been genetically engineered or contain genetically engineered ingredients to be labeled to indicate that. Would you favor or oppose requiring labels for foods that have been genetically engineered or contain genetically engineered ingredients?

After the respondent gives the answer, then the follow-up question is this: Is that strongly or not so strongly? Well, 89 percent of Americans say they favor mandatory labels on foods that have genetically modified ingredients. That is powerful. That is nine 9 of 10 Americans.

Furthermore, 77 percent of the respondents said that they not only favor mandatory labels but they strongly favor the proposal. Now, this is very unusual to have nine Americans line up on one side versus one on the other.

Is this something that has to do with party affiliation? Absolutely not. Across the great spectrum of ideologies in America, citizens agree in this poll, with 89 percent of Independents—the same as overall—84 percent of Republicans, and 92 percent of Democrats. In other words, regardless of party, basically 9 out of 10 individuals say the

same thing on the right, on the left, and in the middle.

Well, that should be listened to up here on Capitol Hill because we are intended by constitutional design to be a “we the people” government, not the government of, by, and for powerful ag companies. If you want to serve in that kind of government, go to some other country because that is not the design of our Constitution.

Our responsibility is to the people of America. They don’t like Big Government trying to tell them how to think, and that is why this DARK Act is just wrong.

There are some ideas floating around this building today. One of those ideas is, well, we will put a label on a food product that will be just a phone number, and if you, the citizen, want to know details about this product—whether it contains genetically modified ingredients—well, you can ring up this phone number and maybe somebody will answer your question. You can call the company, and the company will tell you what they think about their product.

Well, first, Americans don’t want to stand there in the grocery store and start making phone calls to companies. Can you imagine, you are standing there—and you actually care about whether there is a GMO in this product. You are going to make a phone call. You are going to wait while you go through a telephone tree. You are probably going to have to speak to somebody overseas who may not even understand what you are asking, or you get a company spokesman who is going to lay out the company line and never really give you an answer. Why should you have to do that?

Think about the parallel situation. We have all these other ingredients on the package. We include things such as sea salt as opposed to salt. We have preservatives. We have colors that are incorporated into the food because people want to know about the colors, the food dyes that have gone into the food. They want to know about the preservatives that have gone into the food.

We even tell companies that on the label they have to tell the consumer whether the fish has been caught in the wild or raised on a farm. Why do we require that label? Well, we require that label because citizens want to know about the ingredients in their food—in this case, the makeup of their fish, because it is different. There are different farming practices between catching wild salmon and raising salmon on a farm, in a pond, or in an ocean-contained area. There are different impacts. Citizens care about that, so we require it to be disclosed.

We require our juice companies to say whether the juice is fresh or reconstituted. Why do we provide that information? Why do we require that? Because citizens want to know. There is a difference between the two products, and they want to know. It is their right to know what they put into their own

bodies, what they feed to their families, what their children consume. It is their right to know. Again, 9 out of 10 Americans say this is important to them.

This telephone idea is just the worst possible scam. Let’s put it frankly. Nobody is going to stand there comparing soups, making phone call after phone call after phone call. Nobody who wants to know if there is high fructose corn syrup in their food is going to stand there, look at a can, and dial phone number after phone number. That is why it is printed on the label. That makes it very simple.

There is another idea floating around here: Put a computer code on the product, and people can scan it with their smartphone and get information. Well, this may be even more ludicrous than the phone idea in terms of stripping the power of American citizens’ right to know. First, you have to be in the grocery store, and here are the different cans of soup you are going to compare. Oh, let me take a picture of the first one with my phone. Oh, OK, now I have to go to the Web site. I am taking a picture of the bar code, and I am going to go to the Web site. OK, which page of this Web site do I go to? Oh, look, this Web site was written by the company that makes it.

They are making it hard for this information to be found. They are making it hard for this to be understood. They are not disclosing the details of the type of genetic modification. Well, that is absurd. Can any Member of this Chamber really tell me—can you stand and tell me that you are going to take pictures of 10 different products while your child is sitting in your grocery cart? And that is just to buy one thing on your grocery list. Does anyone here want to stand and claim they would do that? I think the silence speaks for itself.

Certainly we are in a situation where people don’t want to take pictures of these codes with their cell phones because it reveals information about them that the companies collect on them. Why should they have to give up their privacy to know about an ingredient in their food?

Let’s be clear. There are two scams being discussed right now by the majority leaders of this Chamber, this esteemed Chamber which should stand for free speech and knowledge, not suppressed speech and lack of knowledge. They want to send you down this rabbit hole of 800 numbers or this blind alley of computer bar codes rather than a simple indication on a package.

Let’s recognize that this is a pretty easy problem to resolve because most of the world has figured it out—64 other countries, 28 members of the European Union, Japan, Australia, and Brazil. They all have a simple disclosure on the package, a consumer-friendly phrase or symbol. That symbol is straightforward. There is no smoke-screen. There is no blind alley. There is no rabbit hole. There is no cleverness

over an 800 number or a bar code or another computer code called a quick response code. No, they simply give the information, the way we do on everything else, the way we do on preservatives, food colorings, core ingredients, wild-caught fish versus farm fish, and juice from concentrate versus fresh juice. They make it simple. They just have a simple marking on the package.

Do you know who else provides this simple information to their consumers? China. Do our citizens deserve less information than the Chinese, who live in a dictatorship? Why are Members of this Chamber trying to strip more information away from American citizens than does the dictatorship of China? That is just wrong.

There is an easy solution here. There are a number of reasonable arguments that Big Agriculture is making. They say: Look, we do not want 50 States producing 50 different label standards.

I absolutely agree.

They say: We don't want a bunch of counties and cities producing yet other label standards; that could go into the thousands.

Fair point.

One common way of doing this would make sense. You cannot have a warehouse that is serving three or four different States or multiple communities that need to have this product sorted and distributed, one group to here and one group to there. You can't keep it all straight. It is expensive. There are all these different labels. It is confusing. That is a fair point. I agree. Let's do one 50-State solution.

The industry says: We don't want anything pejorative. We don't want anything that says GM is scary or GM is bad.

I pointed out that there are some advantages to genetic modifications and there are some disadvantages. So I agree there too. Let's not put a marking on a package that is pejorative.

The industry says: We don't want anything on the front of the package. It takes up space. It may suggest there is something scary about this if you are putting it on the front of the package.

OK, fair enough. Let's not put it on the front of the package. I completely accept that point.

The industry says: There are several different ways we could do this. We would like flexibility.

Absolutely. Let's have flexibility.

So I have put together a bill which hits all these key points the food industry has raised. It is a 50-State solution. There is nothing on the front of the package. There is nothing pejorative. And it gives the type of flexibility the industry has talked about.

Under the bill I have put forward, they are allowed to put initials behind an ingredient in parentheses or to put an asterisk on the ingredient and put an explanation below or to put in a phrase—as Campbell Soup plans to do—that simply says: This product contains genetically modified ingredients.

Campbell Soup is planning to do that because they say they want a relationship of full integrity with their customers. Shouldn't we all be for full integrity with our citizens? Doesn't that make a lot of sense?

Yet another option would be to put a simple symbol—any symbol chosen by the FDA, so certainly not one that suggests there is anything pejorative about it. Brazil uses a little “t.” OK, how about a little “t” in a triangle or in a box or something else that the FDA or the food companies would like?

The point is, if someone cares enough to pick up a package, turn it over, and look at the fine print on the ingredients, if they care enough to look, just as they might care enough to look up whether there is high fructose corn syrup, just as they might care enough to see if there are peanuts in it because they have a peanut allergy, or just because they want to look at the ingredients to see how many calories are in a product, if they care enough to pick it up and turn it over, a little symbol—all of those options are available under this type of reasonable compromise. It would appear on each product involved in interstate commerce. OK, so that is consistent, and that is a point made. It is clear. These symbols are clear.

The public that cares get educated. They know what to look for. It is easy to find. It is right there on the package. There is no sending you off on a wild goose chase through a phone tree and an 800 number. There is no proceeding to tell you that you have to use a smartphone, which many people don't have. They might not even have reception to be able to use it effectively if they wanted to. No. It is a simple, straightforward phrase or initials right there on the ingredients package. What could be more appropriate than the simplicity of that?

Many folks have stepped forward to say this makes tremendous sense. Campbell Soup said: Yes, we endorse this. This makes sense. Also, Nature's Path, Stonyfield, Ben & Jerry's, Amy's Kitchen, Consumers Union, the American Association for Justice, the National Sustainable Agriculture Coalition, and the Just Label It coalition.

Yes, OK, that is fine, we are not asking for something on the front of the package. It doesn't have to be on the front. It doesn't have to be scary. It can be in that tiny print on the ingredients page. When an earnest, sincere citizen wants to know, they have the right to know in a consumer-friendly fashion.

I particularly thank the Senators who have already signed on to endorse this legislation: Senator LEAHY and Senator BERNIE SANDERS, who come from Vermont, which has a State labeling bill that would be preempted by this bill. It would be replaced by this 50-State national standard. But because this is a fair standard for consumers, they are endorsing this bill. I also thank Senator TESTER of Montana, Senator FEINSTEIN of California,

Senator MURPHY of Connecticut, Senator GILLIBRAND of New York, Senator BLUMENTHAL of Connecticut, Senator BOXER of California, Senator MARKEY of Massachusetts, and Senator HEINRICH of New Mexico. All parts of the country, different parts of the country, and they are all saying: You know what, our citizens, 9 to 1, want a simple, fair statement or symbol on the ingredients list. That is just the right way to go.

If you are going to step on the authority of States to provide information that citizens want, you have to provide a simple, clear, indication on the package. That is the deal. That is the fair compromise. That is standing up for citizens' right to know. That is honoring the public interest. That is a compromise in the classic sense that works for the big issues the companies are talking about. They don't want the expense from individual States and they don't want the complexity and confusion from individual States. What consumers want is a simple indication on the package.

Let's do the right thing. Let's not be worse than China and block our consumers from having access to information. Let's do the right thing that virtually every developed country has done and provide a simple, clear system for citizens to be able to know what is in their food.

The PRESIDING OFFICER. The Senator from North Carolina.

#### FILLING THE SUPREME COURT VACANCY

Mr. TILLIS. Mr. President, I appreciate the opportunity to come to the floor and talk a little about the ongoing dialogue we are having on the Supreme Court nomination.

Before I start this speech, I wanted to comment on something for those who think all we do is fight here. I think the Presiding Officer was at our bipartisan lunch. I think it is a great opportunity. So often we see the debate on the floor and the dialogue in the committee rooms, but we take the opportunity every month or so and Democrats and Republicans come together and we enjoy each other's company. We talk a little about policy but more about the folks back home. So I just wanted to let the American people know that because we happen to have differences, it doesn't mean we don't like and respect so many of our colleagues.

Today, though, I am talking about something that is a point of contention between Democrats and Republicans, and it relates to the open Supreme Court seat as a result of the tragic passing of Justice Scalia. Originally, I was going to come to the floor and provide a speech I had prepared, but I was in the Judiciary Committee today and I decided—probably against my staff's wishes—to deviate a little from the script and to talk about some of the facts that were put forth in the Judiciary Committee today.