

families. Today is a good day for them. It is a good day for all of us.

I also want to pay tribute to the senior Senator from Massachusetts, Senator KENNEDY. I had the privilege and honor of standing with him at numerous press conferences and briefings. We brought small business people out who said that they paid their people more than the minimum wage, and they were proud of it. They had loyal and hard-working employees.

At another, we had working women tell us that the difference to them between the hourly wage they are getting and the wage they will get after this 90-cent-an-hour increase meant that they could pay for some long overdue doctor bills. So we have done something very fine here today.

And health care—two of the provisions of the Clinton health care bill were taken out of that bill and passed in the form of a Kassebaum-Kennedy bill. People can take their health insurance with them from job to job. It is a lifting of a burden and a worry. People with pre-existing conditions, like high blood pressure, will not be denied coverage. We should be very, very proud as we leave here this evening.

Mr. President, in closing, I want to call attention to one issue that was not so good, not so kind, not so nice to the American people. When the minimum wage bill left the Senate, it had in it a provision that I was honored to author. It would have protected widows and widowers from poverty when the working spouse with a pension dies first. Currently, when the working spouse dies with a pension, the surviving spouse's pension is cut 50 percent under the only pension option required by federal law.

We can fix this problem without any cost. We can offer those couples when they do their pension planning an option that ensures the surviving spouse pension is not cut in half. We could have done that in this bill. We did it in the Senate's bill on an overwhelming 96-2 vote. But the House leadership took the provision out.

I look forward to coming back here after the break and working with my colleagues on the Family First agenda that Senator DASCHLE has laid out: Income security, pension security, health care security, security in our communities by putting more police on the beat.

These are the things Democrats are working for. I know we can reach across this aisle, as we did on the two bills that just passed, to carry out that agenda. Then we can really feel good about what we do here in the U.S. Senate.

Thank you very much, Mr. President. I yield the floor.

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER. The Senator from Iowa.

#### HEALTH INSURANCE LEGISLATION

Mr. GRASSLEY. Mr. President, Congress has been struggling to address

the problems of our health care system for at least 4 years now. We have a bill before us which constructively addresses some of these problems. And the President has indicated that he will sign it.

The bill preserves the essence of the Kassebaum bill. It provides a medical savings account opportunity. It increases the health insurance deduction for the self-employed. It will facilitate and encourage the purchase of private long-term care insurance. And, it will provide major new weapons in the fight against health care fraud and abuse.

Senator KASSEBAUM's legislation addresses some of the most distressing health insurance problems of Americans. It should increase the availability of health insurance by requiring insurers to issue health coverage to businesses which want to purchase health insurance for their employees.

It should substantially increase the portability of health insurance by limiting the ability of group health plans to impose pre-existing condition exclusions on workers moving from one job to another. Workers insured in one job will now be able to move to another job without fear of losing their health insurance. It will also improve portability for individuals moving from the group to the individual health insurance market.

The bill still defers to health insurance reforms passed by the states. In my State, we enacted earlier this year a good health insurance reform law. The Kassebaum bill defers to State insurance reforms which substantially achieve the ends the Kassebaum bill seeks. So, my expectation is that Iowans will continue to receive health insurance under the terms of the Iowa reforms.

But many States have not enacted health system reforms. Should those States continue without their own reforms, the Kassebaum bill will provide their citizens with these protections.

The bill includes a medical savings account program. As the sponsor of one of the major medical savings account proposals in the Senate, I am very pleased to see that the conferees agreed to include a modified version of the original proposal introduced by Congressman ARCHER and myself.

The provisions contained in the bill retain the essential structure of the MSA concept. I would have preferred to see the maximum annual contribution to an MSA account be larger than 65 or 75 percent of the deductible for an individual or a family. I would have preferred that more than 750,000 be able to participate. I do not see as a major limitation the fact that participation will be limited to smaller businesses and the self-employed. That's where the problem of the uninsured is greatest; hence, MSA's make sense for those individuals.

If I have any concerns about the MSA provisions, Mr. President, it is that I have been given to understand that the those provisions are elaborate and

complicated. Given this, I can only hope that the MSA program laid out in this bill will not fail because of this complexity. If we must have a trial of this concept, we have the right to expect that it will have a fair chance to succeed, and not hamstrung by overly complicated rules and regulations.

The farm community and the small business community strongly support this MSA concept. In my State of Iowa, a great many people are familiar with high deductible health insurance policies. I believe that many Iowa farmers and small businesspeople will want to participate in this program.

Another feature of the bill that will be welcomed by the small business community in my State is an increase in the deductibility of health insurance premiums for the self-employed from 30 percent to 80 percent by the year 2006.

One of the great inequities in our health care system is that businesses that offer health insurance as an employee benefit can deduct the cost of that insurance from their Federal taxes. The employees of those companies get those benefits, which are a part of their earned compensation, tax free. The self-employed, however, get only the current law 30 percent deduction for what they must spend for health insurance.

The bill provides a medical expense deduction for payment of qualified long-term care insurance premiums and expenses. This should give a boost to the use of private long-term care insurance. Given our Federal budget deficit problem, and the difficulty we are going to have as a government and society paying for the benefits we have already promised, we simply must encourage increased use of private long-term care insurance. These provisions should help.

Second, Senator COHEN's waste, fraud and abuse legislation is included in the bill. These provisions constitute a substantial increase in the remedies available to law enforcement for combating health care fraud and abuse. The General Accounting Office has estimated that fraud represents as much as 10 percent of total health care spending.

Perhaps 10 percent does not sound like much. But 10 percent of more than \$900 billion per year is a huge amount of money. We must do our very best to insure that we are not defrauded of any of this money and that not a penny is wasted.

Mr. President, we have been promising these incremental reforms since at least 1992. Most of us have been saying, since at least 1992, that we could easily enact reforms such as those in this bill. We should pass it.

Mr. President, I feel that I should conclude by making clear to my own constituents what this bill is not designed to do. I think we will be making a serious mistake if we over-sell what it is designed to do and, therefore, what it will accomplish. If we do exaggerate what this bill is designed to do,

the American people will be very disappointed and disillusioned when they discover that the bill does not live up to their expectations.

Therefore, I want to make clear, at least to the people I serve in Iowa, what this bill has never been designed to do.

It does not attempt to make health insurance more affordable;

It would not completely eliminate denial of coverage for pre-existing conditions;

It would not provide portability between different individual policies; and

It would not necessarily mean that currently uninsured individuals would have to be sold a health insurance policy.

Having said that, let me conclude by saying that this monumental piece of legislation is the kind of incremental common sense reform individuals and families across the country have been looking for. I am proud to support it and I urge the President to sign it.

#### GOOD SAMARITAN FOOD DONATION BILL

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2428, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2428) to encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, I rise to support the passage of the Good Samaritan Food Donation Act, H.R. 2428. This important measure will encourage the charitable distribution of food by establishing a single national liability standard for the good-faith donation of food and grocery products. It has been named in honor of my good friend, the late Bill Emerson, who staunchly advocated this measure as well as other nutrition programs during his service in the House of Representatives, and I believe it is a fine tribute to his interest and commitment to ensuring that hungry Americans are properly fed. I would also like to commend Senator BOND and Senator LEAHY for their efforts in seeing this bill brought to the floor as quickly as possible.

Liability concerns are the overriding reason why unsalable, but otherwise wholesome, food is destroyed rather than donated to charity. In 1990, Congress attempted to address these concerns with enactment of the Model Good Samaritan Food Donation Act, which gave States a model statute to enact in order to provide some measure

of protection from liability. All 50 States and the District of Columbia have enacted some form of legislation aimed at extending liability protections to donors and distributors of donated food. Unfortunately, States have taken a wide variety of approaches to this issue, leaving donors and distributors of food with a confusing patchwork of laws with which to contend.

It is my understanding that none of the various State laws have been tested in the courts. Nevertheless, the fear of potential liability continues to discourage potential donors 6 years after passage of the model statute. When Second Harvest, the Nation's largest network of food banks, commissioned a survey last year to examine the factors affecting food donations, the fear of liability remained the single most important reason why food is destroyed rather than donated.

Computerization and new inventory practices by some of the Nation's largest food retailers and distributors have meant less food is wasted in this country. For food banks, this new efficiency has made it more difficult to obtain food donations. Fear of liability only makes their essential work harder.

By enacting this measure, Congress will be helping to ensure that food banks can respond to the needs of the hungry in our communities. This modest bill should be just the first step in a sustained effort to see that other obstacles to charitable activities are removed as well.

#### AMENDMENTS NOS. 5148 AND 5149

Mr. SANTORUM. I understand there are two amendments at the desk, one by Senator LEAHY and one by Senator KENNEDY. I ask unanimous consent they be considered en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes amendments en bloc numbered 5148 and 5149.

Mr. SANTORUM. I ask unanimous consent reading of the amendments be dispensed with.

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

The amendments (No. 5148 and 5149) were agreed to, en bloc, as follows:

#### AMENDMENT NO. 5148

Beginning on page 2, strike line 16 and all that follows through page 3, line 11, and insert the following:

(C) by striking subsection (c) and inserting the following:

“(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—

“(1) LIABILITY OF PERSON OR GLEANER.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

“(2) LIABILITY OF NONPROFIT ORGANIZATION.—A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condi-

tion of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

“(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.”.

#### AMENDMENT NO. 5149

On page 2, line 8, insert “the title heading and” before “sections”.

On page 2, strike line 15 and insert the following:

Samaritan”;

(C) in subsection (b)(7), to read as follows:

“(7) GROSS NEGLIGENCE.—The term ‘gross negligence’ means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.”;

On page 3, line 11, strike the period and insert “; and”.

On page 3, between lines 11 and 12, insert the following:

(E) in subsection (f), by adding at the end the following: “Nothing in this section shall be construed to supersede State or local health regulations.”.

On page 4, after line 1, insert the following:

(c) CONFORMING AMENDMENT.—The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

Mr. KENNEDY. Mr. President, H.R. 2428 provides limited immunity from tort liability for nonprofit food banks. I am pleased to support the bill now that it includes my amendment clarifying that nothing in the bill supersedes State or local health regulations.

Tort liability is a central pillar of our legal system. It protects consumers by providing an incentive for reasonable care, and it ensures reimbursement for those who are injured by negligent conduct. Any exceptions to the general rules of tort liability must be narrowly tailored.

I do not object to the effort embodied in this bill to provide a measure of additional protection against liability for food banks. These organizations engage in important work, and they deserve our support. I have some concerns about the scope of the protection we are extending to food banks. I would have preferred a definition of gross conduct which made clear that conduct, including a failure to act, by a person who knew or should have known that the conduct was likely to be harmful to the health or well-being of another person would still be actionable. But I am satisfied that the standard contained in this bill still requires that food donors and food banks exercise care to ensure that the food they donate or distribute does not harm the people receiving the food.

My amendment makes explicit the fact that nothing in this Good Samaritan Food Donation Act supersedes State or local health regulations. If we diminish the protections afforded by the tort laws, it is vital for the health