

We come to the Senate to debate how we change health care policy so that health care is accessible and affordable for all Americans. We understand today how many Americans, or we think we do, go without insurance, without coverage, without the security at night of knowing that whatever happens to them, they have a policy to take care of.

If we did not solve this problem, it does not matter what the policy says. If the doctor is not there, where is our level of security? Where is the level of security of an American today that lives in a rural market where their hospital is closed? Not just their doctor left, but because of an 1,800-percent increase in the cost of liability insurance, they have decided to close the doors.

The burden falls on the payer—us—on insurance companies to try to raise the reimbursements big enough to make the payments for liability coverage. Why? Because of mega-awards, because of the influence those mega-awards have, in fact, had on the insurance product itself.

Dr. Handy was not the only one who wrote me. I had an interesting note from a doctor in Fayetteville, a member of a four-person neurology practice that cannot attract physicians to join the practice because of the inhospitable liability environment that exists. She and her husband are both neurosurgeons. They want to stay in North Carolina, but they may need to move and are actively looking elsewhere because they cannot even attract a neurologist to come into an existing practice.

They realize, as two neurosurgeons, if your practice cannot grow based on today's reimbursement structure, there is no way they can survive. Increases in their costs of insurance have limited their ability to deliver charity care. They have also decreased their participation in workers' comp. Their practice writes off more than \$1 million a year in uncollectible accounts. There are currently only four neurosurgeons in Fayetteville, NC—the pentagon of the Army, Fort Bragg, NC, where over 55,000 men and women in the U.S. Army call home.

But some still suggest there is not a crisis. You see, it is easy to suggest that something does not exist because I think there is a tendency in our system that until it directly affects us, it really does not exist.

The reality is that every day we meet in this incredible, historic institution, there are people across this country who do not have access to a doctor, who cannot afford the services, who have been affected by the fact that the liability crisis in America is, in fact, real and has affected them.

Well, the challenge for this Senate, as we move forward, is to make sure our voices are louder than those who suggest there is not a crisis, to make sure the human face of those around America—who are affected directly and

indirectly by the liability crisis that exists in medicine today—to make sure their voice is heard, their face is seen, that in this institution, as we talk about solutions, we look around the country and say: What have others done?

Well, that is what we are getting ready to do next week. We have looked around the country and seen who has been successful. And we are going to adopt a model that exists in Texas. It is not one that tightens as much as California. California, usually not necessarily the one that looks at Washington and says: Limit something for us—California woke up and said: There may not be a liabilities crisis in America, but there is a liability crisis in California, and we are going to put caps in, we are going to bring some sanity to the system, we are going to bring in the parameters that drive price's down and encourage doctors to practice here in, yes, obstetrics, in neurology, in neurosurgery, and thoracic surgery.

California thrives today. What was California's comment about what we might do in Washington? It was: My gosh, don't make us raise our caps to what you are going to establish in all the States. We are below that today. I never thought I would say: California does something right. Let's mirror it. But that day has come in the Senate but at a time where some still suggest there is not a crisis.

What do we want to do? Replicate what, in fact, States have replicated to address the high cost of health care, the lack of access, the flight of doctors, the need for specialists. We want to adopt that nationally. It is as simple as that.

Next week, people will come to the floor of the Senate and they will, in an incredible way, suggest there is not a crisis in America. I want those in the Chamber today to remember next week not just the doctors who say there is a crisis, and it is real, but to remember the patients out there who are directly affected by our inability to solve this problem. They are the ones for which the safety net is supposed to be there to protect them. But the safety net only works if the infrastructure is there. This is not about cost by itself today. This is about access. And when access goes away, our ability to address it with a safety net is gone.

I urge my colleagues to stay engaged. I look forward to next week's debate.

I thank the Presiding Officer for the time, and I yield back.

The PRESIDING OFFICER (Mr. BURR). The time of the majority has expired.

The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for up to 20 minutes in morning business.

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

#### MEDICAL LIABILITY REFORM

Mr. CORNYN. Mr. President, I come to the floor to add a few words to the

eloquent words spoken by the Senator from North Carolina about a national crisis in access to good quality health care.

Some have said we do not so much have a health care system in America today as a sick care system. We know there is a lot we can do to change that and improve that. But we, at bottom, need to make sure everyone in this country has access to good quality health care.

One of the ways we do that is by making it less onerous for health care providers—doctors and hospital workers—to practice their chosen profession. But right now—because of soaring costs of medical liability insurance, because of our unpredictable, some might say, litigation lottery system in this country—we need to come up with some practical ways to solve that problem, to help bring down those costs, to make it possible for doctors and health care providers to practice their profession. In the end, that is the only way we are going to be able to follow through on this promise of universal access to good quality health care in this country.

Now, we, fortunately—as Louis Brandeis described the States, he called them laboratories of democracy. And we know, as Americans, not all good ideas come from Washington, DC. Indeed, an awful lot of bad ideas come out of Washington, DC. What we need to do is to look for good models and good examples of success stories and to try to emulate those on a national basis.

Now, three times in the 108th Congress we brought to the floor legislation designed to modestly limit runaway damages—not for economic damages; that is, lost wages, medical bills, and the like—but, rather, to provide some reasonable caps on what are called noneconomic damages, things such as pain and suffering, punitive damage awards, and the like.

Three times we brought proposals to this floor to provide modest caps, to try to emulate the success stories in States across this Nation, to try to lower health care costs and increase access to health care, but we were denied an opportunity to have an up-or-down vote on those reforms.

We brought forward a bill limited to obstetricians and gynecologists because of the lack of doctors to deliver babies for pregnant women. We were told no. We then brought forward a bill limited to emergency room physicians, again, to try to deal with the crisis and the lack of access to well-trained emergency room physicians. Again, we were told no by the other side of the aisle.

But I have learned one thing in the short time I have been in the U.S. Congress; and that is, perseverance pays off. So if at first you do not succeed, try, try again, because, hopefully—hopefully—circumstances will have changed, people will reconsider. Hopefully, constituents, whom Members of the Senate represent, are talking to

their Senators and saying: We need reform. We need change. And so here we are again to make another try.

Just 2½ years ago, the voters in my State, the voters in Texas, passed proposition 12, a referendum that paved the way for medical liability reform and helped to stem the tide of frivolous and expensive litigation that had for so long plagued our civil justice system.

The result: Decreased costs and increased numbers of physicians. And with it, better access to good quality health care for the people of my State.

Consider the following: All major physician liability carriers in Texas have cut their rates since the passage of the reforms, most by double digits. Texas physicians have seen their liability rates cut, on average, 13.5 percent. Roughly half of Texas doctors have seen their rates slashed a quarter, producing roughly \$49 million in annualized premium savings for Texas physicians.

Let me make clear, this is not just about saving doctors money. That is not what this is about. This is about patient access because when the costs of doing business go so high, doctors who have practiced a long time, who are nearing retirement, say: Do you know what. I think I am going to retire early. Or when young, smart men and women are deciding what careers to pursue—if they look at a career where the overhead costs of practicing their chosen profession are so high that the rate of return on this investment they have made will be so low—they will decide to do something else.

That is why we have had a lack of access to health care in my State and in this country and why this issue of liability insurance rates coming down is so important to the ultimate goal of increased access to good quality health care.

In my State, since the reforms were passed, five carriers have announced double-digit rate cuts, and recently Medical Protective, a company that writes medical liability insurance coverage, announced a 13-percent rate cut in February—their third announced rate cut within a span of 11 months.

The largest underwriter, Texas Medical Liability Trust, has cut premiums almost 21 percent, resulting in \$86 million in savings, plus a \$10 million dividend for its policyholders.

Competition is also increasing. With the passage of these reforms, Texas has added three new regulated carriers, 20 unregulated carriers, and now Texas physicians can competitively shop for their medical liability insurance policies.

But that is not the only good news. By far, the most encouraging results of these reforms has been a flood of new physicians coming to Texas. So there are more people to treat my constituents, the patients of Texas.

Since proposition 12 passed, this medical liability reform, Texas has added somewhere in the order of between 3,000 and 4,000 new physicians. The

Texas medical board is anticipating a record 4,000 applications for new physician licenses just this year, which is twice last year's total, and 30 percent more than the State's single greatest growth year.

After a net loss of 14 obstetricians between the years 2001 and 2003, Texas has now seen a net gain of 146 obstetricians. Texas experienced a net loss of nine orthopedic surgeons from 2000 to 2003. Since these reforms were passed, the State has experienced a net gain of 127 orthopedic surgeons. And those who need it most are the ones who are benefiting, as physicians move to jurisdictions where there has been a woeful lack of available health care.

Sadly, in my State, the parts of the State that need access to health care the most are the ones that have been the least hospitable and, indeed, the most hostile to the health care providers because they have been the areas where medical liability lawsuits have run amok. This, in fact, has helped rein that in and bring some common sense to the system.

For example, Cameron County, along the Texas-Mexico border, is experiencing the greatest ever increase in numbers of physicians. Jefferson County, which is Beaumont, Nueces County, which is Corpus Christi, and Victoria County, which is Victoria, saw a net loss of physicians in the 18 months before these reforms were passed, but currently all three counties are producing impressive gains, adding much needed specialists and emergency room physicians. As a result, the people of those areas have benefited enormously. Each of the medically underserved communities of Corpus Christi and Beaumont now has a neurosurgeon that they did not have before the passage of the reforms.

Sometimes lost in the numbers are the real benefits that are realized, the day-to-day improvements in the lives of the people who are affected. After the passage of these reforms, two obstetricians in the small town of Fredericksburg, TX, announced their return with an advertisement in the local newspaper that said: "We're Back." One of these obstetricians, a Dr. David Cantu, had been working for more than 10 years with no claims, but he and his partner had to quit practicing their profession of obstetrics and gynecology because of the cost of insurance. Dr. Cantu's overhead was hitting 100 percent. In other words, everything he was earning was going to overhead, and he had a 3-month stretch of time when he could not draw down any pay whatsoever.

As soon as Dr. Cantu stopped delivering babies, the practice saw an immediate decrease in their insurance costs, but the patients were negatively impacted because they then had to travel miles away to have their babies delivered. This was doubly difficult for them considering that a full 70 percent of Dr. Cantu's patients were Medicaid patients and 40 percent were Spanish-speaking patients.

With this reform, Dr. Cantu and his partner are now able to deliver babies once again. When asked why proposition 12 in Texas helped him, Dr. Cantu said:

Because now I come out ahead instead of paying to be an obstetrician. Prop. 12 made the practice of obstetrics affordable.

After 4 years of searching for a neurosurgeon in Corpus Christi, the community successfully recruited Dr. Matthew Alexander from a Wisconsin residency program. Dr. Alexander told the Corpus Christi Caller-Times he would not have come to Texas had the reforms not passed. As a result, patients are now getting procedures previously unavailable to them.

Consider, for example, high school principal and triathlete Travis Longanecker, who was a recipient of an artificial disc in his back, the first procedure of its kind in south Texas. The surgery has alleviated his pain and allowed him to return to a normal life—again, a procedure that could not have previously been performed because Corpus Christi was having a difficult time recruiting a neurosurgeon to actually come practice there. Or consider George Rodriguez, who had a spinal abscess and arrived at the hospital paralyzed from the waist down. He had been in a paralyzed state for roughly 24 hours. Dr. Alexander again successfully performed the necessary procedure. But had the surgery been delayed for as little as 1 hour, George Rodriguez would have been paralyzed for life.

These stories are not about theory. This is not about actuaries and about insurance policies and premiums. These stories are not the stuff of academic journals, and these stories at bottom boil down to basic issues of life and death and quality of life. These are real-life examples. These are real people whose lives are much better as a direct result of the relief provided after the people of Texas took to the polls, took action, and passed these reforms.

While I am very proud of the reforms passed by Texas and the great strides we have been able to make in that State of 23 million people toward a better health care system, the fact is, we now have an opportunity to extend those benefits to all of the people in this country by passing nationwide legislation which would build on that Texas model and accomplish these reforms. I hope our colleagues who previously have blocked our ability to have an up-or-down vote on this important legislation will reconsider. The proof is as plain as the nose on your face. It is there for anyone and everyone to look at and to learn from. I hope those who have previously blocked our ability to address this important issue will have learned and will reconsider.

Obviously, health care is so important to all of our families and all of our lives. I am pleased that we will also be bringing to the floor the Health Insurance Marketplace Modernization and Affordability Act of 2005. That is a long title, but basically it is about giving

small businesses and other individuals an opportunity to pool together to try to make health insurance coverage more affordable and accessible so more people can have health insurance. We can use this to build on some of the great reforms we passed as recently as 2003 which allow people to create such things as health savings accounts, which has given rise to the whole notion of consumer-driven health care.

Someone pointed out to me not too long ago that we know more about the used cars we buy than we do about the health care services we purchase because we can find out about quality, we can find out about price, and we can compare. The fact is, the American consumer is largely denied that opportunity, and we need to provide that sort of transparency so that patients can compare and make the best decision for their needs and their family, and which, not coincidentally, will help bring down the price of health care services because people will be able to then pay out of their health savings account. Obviously, that will have an impact on utilization rates as well.

I thank the Chair for his patience and willingness to assume that position so I could say these few words both out of pride for my State and for the successful experiment we have conducted in Texas which has now served as a wonderful model for the United States going forward to try to address a true crisis. But not only a crisis, it is something that, once we address this and hopefully pass this medical liability legislation, Senator ENZI's health care bill which will provide greater access to health insurance and provide people with a better life, that we will ultimately have done something good that the American people can say: I know my Senator and my Congressman are up in Washington, and they are actually listening to what we are saying. They are actually dealing with the great issues that affect the quality of my life and my family's life, and that we will have done something of which we can be very proud.

I yield the floor.

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

In December, 2004, a 30-year-old man was beaten outside a restaurant in downtown Seattle, WA. The man received a concussion, split lip, loose teeth, a black eye, and bruises from being kicked while on the ground. The victim believed his assailants beat him

up because they thought that he was gay.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### 35TH ANNIVERSARY OF AMTRAK

Mr. LAUTENBERG. Mr. President, I rise today to commemorate the 35th anniversary of Amtrak. When the first Amtrak Clocker train left New York, bound for New Jersey and Philadelphia, on May 1, 1971, it ushered in a new era of passenger rail travel in the United States. Millions of passengers from every corner of America can attest to the fact that Amtrak remains a vital part of our nationwide transportation network, and I firmly believe it's imperative that we not just preserve our nation's passenger rail system, but also develop it.

Amtrak's transformation from a tiny initiative with only 25 workers and widespread expectations of failure, to a successful national corporation with 19,700 employees in nearly every state, is one of the great success stories I've witnessed during my many years in the Senate. Every day approximately 68,000 travelers rely on Amtrak as an effective alternative to the hassles and delays of air travel, and the increasingly prohibitive gas costs and traffic congestion associated with highway travel.

Amtrak remains enormously important to my home State of New Jersey. Last year, for instance, over 3.4 million people boarded or exited an Amtrak train at the six rail stations in New Jersey, and nearly 1,700 New Jersey residents worked for Amtrak during this same time period. Approximately 110 Amtrak trains travel through my home State every day; this service, combined with the many rail lines that New Jersey Transit, SEPTA, PATH, and PATCO operate, truly makes New Jersey a national leader in passenger rail. I am immensely proud of this distinction—as all New Jerseyans are—and it would not be possible without Amtrak. The benefits of such a system are immense; without rails, our State would suffocate under extreme highway and airport traffic congestion. On Amtrak's Northeast Corridor service between Washington, DC, and Boston, MA, which stops at several points in New Jersey, the trains carry as many people as 75,000 fully loaded Boeing 757 jets each year. By contrast, there are only 102 flights between downtown Washington, DC, and the three New York City-area airports on an average weekday.

On December 11, 2000, the first Acela Express service began on the Northeast Corridor. As one of the leading proponents of high-speed rail in the Con-

gress, it has been a marvel to see the success of this train and its example of how high-speed rail can be successful in our country. I am a frequent rider of the Acela Express between New Jersey and Washington, and I appreciate the service for the same reasons that many others do: it is efficient, it is comfortable, it is cost-effective, and it is convenient. Most tellingly, the Acela Express's operations do not require a subsidy, and I expect its ridership to continue to grow as others discover the advantages of this remarkable train.

Mr. President, it is unfortunate that despite the great successes of Amtrak, it is necessary for the many defenders of the system myself included to fight for its survival at every turn. There are many within the Bush administration—and within the House and Senate—who would like nothing better than to see Amtrak wither and die, stranding millions of travelers in the process. We cannot let this happen, and as long as I am a member of the Senate, I will not let this happen. I will continue to work with a diverse set of colleagues on both sides of the aisle who realize the advantages of providing options for travelers and having a balanced national transportation system.

In short, Mr. President, I salute Amtrak for its achievements, and I extend the railroad and its employees, who are the backbone of the railroad's operation, warmest wishes for continued success through the next 35 years.

#### VOTE EXPLANATION

Mr. HATCH. Mr. President, due to the untimely loss of my beloved sister, Marilyn "Nubs" Hatch Kuch, I have been necessarily absent for a portion of the debate and votes on Wednesday, May 3 and Thursday, May 4, 2006.

Concerning the votes I missed, if I were present I would have voted as follows: nay for amendment No. 3616, striking funding to States based on their production of certain types of crops, livestock and/or dairy products; nay for amendment No. 3673, providing funds for assessments of critical reservoirs and dams in the State of Hawaii; nay for amendment No. 3601, allocating \$1,000,000 for the monitoring of waters off the coast of the State of Hawaii; yea for amendment No. 3704, allocating \$20,000,000 from the AmeriCorps program to the Veterans Health Administration for medical facilities; yea for final passage of H.R. 4939, the Fiscal Year 2006 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery; yea for Executive Calendar No. 617, the nomination of Brian M. Cogan of New York to be the U.S. District Judge for the Eastern District of New York; and yea for Executive Calendar No. 618, the nomination of Thomas M. Golden of Pennsylvania to be the U.S. District Judge for the Eastern District of Pennsylvania. None of these votes would have changed the final outcome.

Mr. SCHUMER. Mr. President, yesterday I was pleased to introduce,