

1987. Throughout her career, Julie played a role in the passage of major pieces of legislation including: The Federal Highway Reauthorization Bills of 1992, 1998 and 2005; the 1987 Farm Credit Act; the 1991 Clean Air Act Amendments; the 1992 Family Medical Leave Act; and the 2002 Help America Vote Act. In 2005, after retiring from the U.S. Senate, Julie joined Ogilvy Government Relations as a Senior Vice President, where she continued her work on various transportation and appropriations issues. Throughout her life, Julie was an accomplished athlete, including playing on the University of Minnesota basketball team. Her lifelong love of sports continued into her adult life as an avid golfer and a formidable soccer player. She was a long-time fan of all Minnesota sports, especially the Vikings and the Minnesota Twins, having attended multiple games during the 1987 World Series. Julie's focus on family and work was only equaled by the intensity with which she followed her Minnesota teams, remembering every play from every game. The passion with which Julie lived her life will be sadly missed by all who knew and loved her. The family will receive guests on Friday, November 19, 2010 from 10 a.m. until the time of service at 10:30 a.m. at the Immanuel Lutheran Church, 1801 Russell Road, Alexandria, VA with a private interment to follow. The family requests that in lieu of flowers, gifts will be received for the "Julie Dammann Family Education Trust". Donations may be sent to: Redmon, Peyton & Braswell, L.L.P., 510 King Street, Suite 301, Alexandria, VA 22314.

Mr. BOND. Madam President, I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### EMPOWERING STATES TO INNOVATE ACT

Mr. BROWN of Massachusetts. Madam President, I rise today and join my colleague, Senator WYDEN, to speak about legislation we have introduced that will protect not only his State but my State of Massachusetts and other States by allowing them to waive out of specific requirements of the Patient Protection and Affordable Care Act.

As my colleagues know, my single priority is and always has been to ensure that what we do in Washington does not harm my State of Massachusetts or the rest of the country, and that we are responsible stewards with every tax dollar that flows from the States into the Federal Government.

This has been true when it comes to voting against raising taxes on families and businesses. It has been true when it comes to fighting for commonsense, pro-growth policies that will create jobs in Massachusetts. It has been true in my efforts to be sure that the Federal health care reform bill does not diminish or harm the health care innovations that have occurred in Massachusetts.

It is my belief that Congress needs to be held responsible for its actions, for the policies it advocates, and the legislation that ultimately passes through these Halls to become law. When Congress passes legislation that is harmful—in this case the Federal health care reform legislation, which I did not support—or there is an unintended consequence—which I think is the case when it deals with Massachusetts and the innovations we have had for years, where we have 98 percent of our people already insured—Members need to be bold enough to stand up and fix it regardless of party affiliation and regardless of whether it is popular.

I commend the Senator who is about to speak after me for his leadership on this matter. Senator WYDEN has been working very diligently on addressing the concerns for his State. Today I get a chance to do the same. Today we get an opportunity to make a correction to the Federal health care reform bill to be sure we are doing the right thing, not just for Massachusetts but for other States that seek to waive out of certain requirements of the Federal health care reform law.

In many ways, Massachusetts has been on the forefront of implementing health care reform: expanding access—as I mentioned, 98 percent of our people are already insured—designing systems to increase market participation—from the Cadillac plan, all the way to the fully subsidized Commonwealth Care Program—and increasing transparency for consumers and providers. We continue to learn, however, lessons every day in Massachusetts about what works and what does not work, and we are continuing to work on those very issues to make sure we can do it better.

This is an important point because it speaks directly to the purpose of this piece of legislation that I have introduced in a bipartisan manner with Senator WYDEN from Oregon.

As you know, the health care reform efforts of Massachusetts are our own. We were one of the first States in the country to take this upon ourselves to address the very serious problem we had in providing funds to hospitals that were providing care for people who were making a good wage but who were not paying the bills. As a result, the citizens had to subsidize the hospitals to the tune of over \$1 billion. So we believed it was imperative for us to get something done.

As difficult as it is to admit this, not every State wants to be like Massachusetts. I understand that. They may not want to be like Oregon either. Massachusetts is a great State, with, I believe, the best hospitals, physicians, doctors, nurses, treatment facilities, research facilities in the country and around the world. There is a reason why people come to Massachusetts for the care and coverage they need so badly.

But I recognize that my colleague from Oregon is interested in protecting reform efforts in Oregon as well. He

does not want to be like Massachusetts because Oregon is different from Massachusetts. Oregon's insurance market is different. Its provider network is different. Its beneficiaries and population are different than in Massachusetts.

Oregon might want to implement reforms or create a coverage mechanism that I do not like or that I would not want to work in the State of Massachusetts, but that is OK. That is what this bill is about. It allows the individual States to have the right to do what they believe is imperative and important for their particular State, which is why the legislation we have introduced—the Empowering States to Innovate Act—is so important.

Right now, as provided under section 1332—the Waivers for State Innovation—of the Patient Protection and Affordable Care Act, States can waive out of provisions of the Federal reform law. That is the good news. We are allowing States to participate in the process and allowing them not to have duplicate processes or maybe potentially have lesser care and coverage if the Federal health care bill is implemented. So it allows us to continue to provide the care and services we want to provide to our citizens in Massachusetts. The bad news is, this waiver authority is not scheduled to take effect until 2017. So what are we doing until then—a full 3 years after the PPACA is scheduled to be fully implemented?

For me and my dear friend from Oregon it does not make any sense. When I see something that does not make any sense in Washington, I do my best, regardless of party affiliation, to fix it.

The first thing our bill does is to allow States to waive out of specific parts of the PPACA in 2014 rather than 2017. This makes sense not only from an operational standpoint, because the PPACA takes effect in 2014, but also from an economic and fiscal standpoint. Why should Massachusetts be delayed in obtaining a waiver from the Federal reform bill when it may already have met or exceeded, in many cases, the provisions of the act? So holding Massachusetts back by limiting my State's ability to continue to innovate and remain flexible and responsive to the health care market costs money, and it costs the taxpayers money at a point right now where we don't have a whole heck of a lot of money to go around.

The second piece our bill does is to provide States with certainty with the waiver process. Not every State will be eligible. Let me repeat that: Not every State will be eligible for a waiver and not every waiver will be granted. But our bill provides some certainty for States that apply for a waiver by requiring the Secretary of Health and Human Services to begin reviewing applications within 6 months of the enactment of this bill. I hope this bill is enacted quickly. The earlier a State knows whether it has received a waiver, the earlier it can begin implementing its specific plans and proposals. It makes fiscal sense.

Taken together, these two changes are not only good for Massachusetts but potentially for other States. They are good for the other States that are trying to innovate and advance in the areas of health care reform, cost containment, and coverage. That is what it should be. It should be a symbiotic relationship between the Federal Government and the States. The States should have the right to determine what they want to do for their citizenry. Do we think maybe some States could do it better than the Federal Government? I believe when we deal with health care, Massachusetts is second to none, with all due respect to the other Senators in this Chamber.

During Wednesday's Finance Committee hearing, Dr. Berwick, who is from the State of Massachusetts, I might add, said this about State innovation and flexibility:

The cliché about states as laboratories of democracy is not just a cliché, it's true. The diversity of approaches that we're seeing emerge state by state has been there for long time. I think we should be doing everything we can to encourage it.

I couldn't agree more. I am a strong supporter of States rights, especially when it makes sense, and for allowing States to solve problems without the Federal Government's interference.

Madam President, I ask unanimous consent to have printed in the RECORD a letter from the Massachusetts Hospital Association in support of my efforts today.

There being no objection, the material was ordered to be printed in the Record, as follows:

MASSACHUSETTS HOSPITAL  
ASSOCIATION,  
Burlington, MA, November 16, 2010.

Hon. SCOTT BROWN,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR BROWN: As you know, the Commonwealth of Massachusetts has succeeded in expanding healthcare coverage to more than 400,000 uninsured residents. We can be proud of the fact that the state has the lowest rate of uninsured in the country, which has improved the lives of so many Massachusetts residents and allowed the healthcare system to operate more efficiently. Our state was able to achieve expanded coverage of this magnitude through innovative programs like Commonwealth Care and Commonwealth Choice, along with other provisions that were part of the Commonwealth's 2006 healthcare reform law.

For these reasons, the Massachusetts Hospital Association (MHA) supports the bill that you intend to introduce that will advance the timeframe for waivers that were included in the Patient Protection and Affordable Care Act (PPACA). As we understand Section 1332 of PPACA, states may apply for a waiver to certain requirements of the federal law so long as the changes achieve healthcare coverage that is at least as comprehensive as the federal law would have provided. The changes are also required not to increase the federal deficit. The law currently allows states to apply for such a waiver beginning in January 1, 2017. Your proposed legislation does not change the terms or process for approving a waiver that currently exist in the PPACA but does move up the date by which the waiver process may begin.

While the Commonwealth is still years away from decisions that will be made in 2014 and beyond, we believe allowing Massachusetts the opportunity to apply for such waiver earlier than 2017 may allow the Commonwealth flexibility it may desire to continue the success it has achieved thus far. We note that Massachusetts is often referred to as a model for national healthcare reform and we believe any waiver that the Commonwealth would apply for, if it so chose, would seek to achieve a similar goal of affordable, comprehensive health insurance coverage as required by Section 1332.

Massachusetts hospitals have been and continue to be supportive of the federal effort to expand coverage to the uninsured and provide affordable health insurance for all Americans. At the same time, we have stressed throughout the national healthcare debate that national reform should support the Commonwealth's own health reform achievements.

On behalf of Massachusetts member hospitals and the patients they serve, we look forward to working with you to preserve Massachusetts healthcare reform as the nation begins to implement the national healthcare reform law.

Sincerely,

LYNN NICHOLAS,  
President & CEO,  
Massachusetts Hospital Association.

Mr. BROWN of Massachusetts. Thank you, Madam President.

We should be encouraging State innovation and not hampering it, and that is what the Empowering States to Innovate Act does. It helps ensure that States are not held back from innovating and seeking solutions that work for their citizens, their taxpayers, and their communities.

Finally, I wish to associate myself with the comments of the Senator from Oregon when he makes them about how our bill fits into the Federal health care reform debate. Enacting this legislation is the right thing to do because it is good for States such as Massachusetts and Oregon and Utah that have begun to make changes and reform at the State level that make sense for their citizens.

The legislation provides flexibility and says one size fits all is not appropriate and it does not always meet the needs of that individual State. I know the Federal standard is not in the best interests of the people of Massachusetts, which is why passing this bill is the right thing to do.

Let me say I deeply appreciate the Senator from Oregon and his effort to weed through the quagmire of rules and regulations and come up with a commonsense solution. I am hopeful others in this Chamber will learn from our example, that we can work together in a bipartisan manner to tackle problems and try to solve them without the rhetoric and without the bomb throwing and just solve problems. Because right now, we need more people like the Senator from Oregon to do just that.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BROWN of Massachusetts. Thank you, Madam President.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Madam President, let me commend the Senator from Massachusetts on a very fine statement, which I think highlights exactly what we are seeking to do.

The Senator from Massachusetts has been a real pleasure to work with on this matter. As he says, the whole point of this, as shown by the recent election, is that people want to find some common ground. They are not interested anymore in food fights and bickering back and forth between the political parties. What Senator BROWN and I are seeking to do is to show it is possible on a significant issue—I think we all understand health care is about as important as it gets—that we can come together, and the two of us have said we are going to come together to put the focus on innovation. It is pretty clear that what works in Springfield, OR, may not be exactly ideal for Springfield, MA. But what we can do is come up with a way to provide more flexibility and particularly more choice and more competition for our States and other States around the country.

So I am very grateful to the Senator from Massachusetts for his effort. It is early in the lameduck session, and it is my hope this will be a signal in the Chamber that even on these difficult issues—issues that were so contentious in the political campaign—it is going to be possible to come together and find some common ground.

As the Senator suggests, if we can just move away from a Federal cookie-cutter approach and encourage the kind of creative thinking we have seen in Oregon and in Massachusetts and other parts of the country, I think we will be well served and will be in a position to better contain health care costs. I think we all understand that how to rein in these medical costs that are gobbling up everything in sight is first and foremost on the minds of our constituents. Literally, for the amount of money we are spending today in this country, one can go out and hire a doctor for every seven families in the United States and pay the doctor more than \$225,000 a year just for taking care of seven families. I always bring up this as almost a metaphor for health care, but usually after I am done, the physician who was listening in the audience comes up and says: Where can I go to get my seven families? It sounds like a pretty good deal. It just shows that we are spending this enormous sum of money.

What Senator BROWN and I are seeking to do is to encourage additional innovative approaches in States, approaches that are tailored to the needs of States' own residents, that will help us, in my view, to promote choice and competition in the American health care system. The States are free to do

whatever they choose. I just offer up my own judgment that right now, at a time when most Americans still don't get much choice in their health care coverage, this is an ideal opportunity that both Democrats and Republicans can support. As States seek to go forward with this approach, they can make their own choices.

I hope, in particular, States will take a look at what you, Madam President, the Senator from New York, and I have in our own health care plan. The Federal Employee Health Benefit Plan provides a lot of choice, a lot of competition. You can go out and fire your insurance company if you don't think they are doing a good job. That is the kind of idea a State could pursue and do so, we hope, more quickly if we act legislatively to speed up the waiver process. But as Senator BROWN has correctly noted, this is about giving States the freedom to chart their own course, and I am very hopeful we will be able to get this legislation passed.

In particular, what I have been concerned about, after talking to health policymakers over the last few months, is if, in the State of New York, for example, you go out and set up a process to comply with the legislation for purposes of 2014 and you see that the waiver, as now constituted under 1332, starts in 2017, you say: How am I going to reconcile those two? Am I going to set up one approach for 2014 and then do another approach in 2017? It is going to put us through a lot of bureaucratic water torture to try to figure out how to synchronize those two dates. So it only makes sense to speed it all up and make it possible for everybody to get started in 2014.

One other point because my intentions have been much discussed. When I originally started talking about the State waiver, people questioned whether this was something that was going to be a special opportunity for Oregon and not for other States. For over a decade, I have been promoting the idea that all States—all States—be given the freedom to innovate under health care reform legislation. In fact, to give a sense of how I got into this, going back and looking at the history of the Clinton health care plan, in the early 1990s it was pretty evident that had President Clinton and Republicans thought then about giving States the kind of freedom Senator BROWN and I envision, it might well have been possible back in the early 1990s to enact health care reform that would have gotten all Americans quality, affordable coverage. That opportunity was missed. So I decided by the mid 1990s—if I had the opportunity, the honor, of representing Oregon in the Congress, I was going to use every single opportunity to let all States—and I want to underline all States—have the opportunity to innovate in health care.

So in mid 2005 I started putting together a piece of legislation called the Healthy Americans Act. It was a bipartisan bill, that had 14 or 15 Senators as

cosponsors, depending on when you look back at the legislative history, that were almost evenly divided between the political parties. In the Healthy Americans Act, there was a specific section called "Empowering States to Innovate." There was a provision in that bill that was first introduced in 2006, and a similar provision was included as section 1332 in the law the President signed.

So I have long been interested in letting all States have the opportunity to innovate. One of the reasons I have been interested—and my good friend, Senator MERKLEY, is here—is that our State has been one of the leaders in the whole effort to reform American health care. From time to time, folks have said I am the Senator from the State of Waiver rather than the State of Oregon because we have tried so often to pursue innovative approaches in health care waivers. We were, as Senator MERKLEY knows, one of the first States to say Medicaid dollars that have been authorized for seniors to pay for services in institutions such as nursing homes should be used instead for home health care; thereby giving seniors more of what they want, which is to stay in their homes, at a cheaper price to taxpayers. We began those efforts, as Senator MERKLEY knows, with waivers from traditional Federal law. So we have a long history of doing this, and I have spent well over a decade trying to establish the principle that all States ought to have the opportunity to bring their creative juices to this issue of health care reform.

We have outlined the two key changes in the legislation that is law today. The first change is to make the waivers effective in 2014 rather than in 2017 so States only have to change their systems once. The second thing the Empowering States to Innovate Act does is it requires the Department of Health and Human Services to begin to review State waiver applications within 6 months of enactment of the legislation. This would allow States early notification of whether their State waivers have been approved and would give them adequate time to roll out their State-specific plans. I think this, too, will help us create more competition, more choice, and more affordability in American health care because it will give the States adequate time to gear up. That is the philosophy behind the Empowering States to Innovate Act, whether one likes one particular approach or another. Clearly, there will be great diversity of approaches tried at the State level.

At a time when we are looking for ways to bring this country together to deal with the most contentious issues of our time, we ought to be supporting innovation. We ought to be supporting unleashing creative kinds of approaches to deal with domestic issues. That is what Senator BROWN and I propose in this legislation. I look forward to working with colleagues on both sides of the aisle.

I yield the floor.

The ACTING PRESIDENT pro tempore. The junior Senator from Oregon is recognized.

Mr. MERKLEY. Madam President, I applaud the work my senior Senator from Oregon, RON WYDEN, has been doing in seeking affordable, effective health care for all Americans and, in particular, his work to utilize our State laboratories in developing smart health care strategies that then, if successful, can become a model for the Nation.

This process of utilizing waivers isn't about a State wanting an exception so that it can be different; it is about recognizing that States have powerful opportunities to form policies that work well under particular circumstances but also may provide insights into our whole national strategy for affordable, quality health care.

So for the work Senator WYDEN and Senator SCOTT BROWN are doing, I applaud them and support them, and I thank Senator WYDEN for his decades of advocacy for affordable health care.

#### FOOD SAFETY

Mr. MERKLEY. Madam President, it is a pleasure to rise to speak about the historic Food Safety Modernization Act.

I thank Chairman HARKIN, who worked with me to include provisions to help small farms and processors and organic farms so that they have before them in this bill provisions that support them and will help make them successful. The last thing we want to see is an effort to make our food safety system work better be used as a tool to diminish the ability of small farms and organic farms to thrive. That has been effectively addressed in the bill but also by provisions I will speak to in a while that Senator TESTER is bringing forward.

I also compliment Senator DURBIN, who has been advocating for this bill, working on the elements of the bill for a very long time, and his determined, tenacious advocacy is the reason this bill is on the floor before us at this moment.

I also appreciate the bipartisan problem-solving approach of the ranking member of the Health, Education, Labor, and Pensions Committee, Senator ENZI, and all of the members of the committee for coming together to say: This is not a Republican or a Democratic problem, this is a national health care issue, a national nutrition issue, and let's tackle it together.

The safety of the Nation's food supply is a serious concern for every family in Oregon and across this Nation. I wish to highlight one Oregon family in particular, Jake Hurley and his dad Peter. I am sure they are very happy to see that we have this bill on the floor, and they will be particularly thrilled when we have it on the President's desk because the issue of tracing contaminated food is an issue that has affected their family very directly.