

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.

This picture is one of Jake taken when his father Peter came with him to Washington, DC, to testify before this Congress and share their story. Jake's favorite food was peanut butter crackers. When he was 3 years old, he became very, very ill. Those crackers he loved so much were the source of his illness, but because we didn't have an effective tracking system, there was no recall and there was no understanding that the crackers were contaminated. So in his illness, his family continued to share with him his favorite comfort food—those same peanut butter crackers that were making him extremely ill. It turns out they were contaminated with salmonella, and the result was that a child's snack ended up putting Jake's life in danger.

The Food and Drug Administration had already determined that peanut butter was a cause of sickening people across the country, but they hadn't been able to trace the peanut butter and know it had made its way into processed products—in particular, the product Jake was consuming. The Peanut Corporation of America, a peanut processing facility in Georgia, had contaminated peanut butter that went into thousands of products, sickening 714 people in 46 States, including Oregon, and killing 9. The Hurleys and countless other families have been waiting for Congress to pass this bill so that other families don't have to be worried that their children will become terribly sick because we can't track contaminated food.

This bill requires the FDA to create rules for tracing processed foods, such as the peanut butter crackers that made Jake sick last year. It took the FDA over a year to trace all the products that the peanut butter went into during that outbreak in 2009. It is still not clear that they ever found all of the products. This is unacceptable. Provisions in this bill will help prevent not only future outbreaks but also future problems tracking down the contaminated food products.

In my work in the HELP Committee, I secured a provision to ensure that in addition to tracing produce, which was already in the bill, we set up a pilot project to calculate the best practices for tracing processed food, which is a more difficult undertaking. But after the bill came out of committee, Senator SHERROD BROWN worked hard to build on that, and he has strengthened the tracing provisions further in the bill. I certainly thank him for doing that. The bill now requires the FDA to create regulations ensuring quick and accurate tracing of all types of contaminated food.

Better tracing of contaminated food and better coordination between local, State, and Federal food safety officials can help prevent children like Jet Valenzuela from getting food poisoning. I turn now to a picture of Jet. I met Jet earlier this summer in Oregon. This is a picture of him in the hospital 2 years ago, when he became

violently ill from contaminated food. He had a deadly form of E. coli. He was hospitalized in Bend, OR. He became so ill that he was flown to Portland for more intensive care. Jet underwent multiple surgeries, blood transfusions, and was eventually put into a medically induced coma. He came within a hair's breath of dying twice. The scariest part of Jet's story is that we were never able to find what made him sick, despite their best efforts, because we didn't have the type of produce and processed food procedures that could assist in tracking down the source.

So for Jet and Jake, it is urgent to pass this bill. Not only does this help respond, but it helps prevent food outbreaks. No family should have to go through what these families went through. Most parents, including myself, have spent a lot of time worrying about how to keep their kids safe, but we should not have to worry about how to protect our children from the food on our plates.

Implementing food safety provisions has to be done in a way that supports our small farms, our family farms. We cannot have a process that hinders them in operating successfully or puts unnecessary restrictions in their path.

I thank Chairman HARKIN for including language in the bill that I suggested, so that no new regulations would conflict with or duplicate the requirements of the National Organic Program. This ensures that there will not be any food safety regulations that would put their organic certification in jeopardy.

I wish to draw attention to the work Senator TESTER has done. He authored provisions that provide reasonable exemptions for very small farms and processors—farms that sell their products directly to local consumers, farms that sell their products directly to local restaurants or to local grocery stores. This comprises only about 1 percent of our national food production, but it is a very important part of our local economies, a very important foundation for our family farms. So I am proud to support the work Senator TESTER has done in making sure our small local farms are fully accounted for and supported in this legislation.

Also in this bill are exemptions for farms that produce low-risk food, no matter what their size. This is a type of logical flexibility to make regulations apply when they are needed and not provide unnecessary restrictions or hurdles when they are not.

In conclusion, I urge all of my colleagues to support this bill. It will improve the tracing of contaminated food, whether that be produce or processed. It will increase inspections. It will create safety guidelines for farms and processors. It will protect organic farms, protect small farms.

This bill works to prevent contamination as well so that we can avoid unnecessary illness and death. Improvements to tracing contaminated food will not only prevent illness but will

prevent costly recalls for farms and food processors who are not at fault for a particular contamination.

Most important, this bill will help other families avoid what Jake and Jet and their parents went through. Parents should be able to pack their children's lunch boxes without fear.

Madam President, I 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. MCCONNELL. 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.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

#### EXTENDING CURRENT TAX RATES

Mr. MCCONNELL. Madam President, we have a lot to do and not much time to do it in before the end of the session. The American people spoke loudly and clearly on election day. They want us to put aside the liberal wish list and focus on jobs. The most important thing we can do to create jobs between now and January 1 is to send a message to job creators that we are not going to raise their taxes. That is why I offered a bill back in September—S. 3773—that would make current tax rates permanent. This is the only bill that has yet been offered that would prevent a tax hike on anyone. In other words, nobody in America would get a tax hike at the end of this year.

The White House didn't seem to like that idea. They said we should raise taxes on small businesses. But this should be an easy one. We should be promoting private job creation, not killing private job creation. So I look forward to hearing any ideas the White House has to achieve that.

One thing we will need to do before we leave this year is to fund the government because Democrats didn't pass a single appropriations bill this year. So now we will have to mop up in the eleventh hour with an omnibus spending bill that covers all of it. This is one more sign they aren't learning many lessons from the election.

If this election showed us anything, it is that Americans don't want Congress passing massive trillion-dollar bills that have been thrown together behind closed doors. They want us to do business differently. So I will not be supporting an omnibus spending bill. We have seen what happens when Democrats rush legislation and try to jam it through at the last minute, with no time for review or for the American people to learn what is actually in the bill. The "Cornhusker kickback" and