

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

and safety of those who consume donated food that regulatory protections remain in place.

I also remain concerned about subsection (b) of the bill, which transfers this provision from the National and Community Service Act to the Child Nutrition Act. But I will not object or seek to amend that subsection based on my understanding that the Labor and Human Resources Committee will continue to exercise jurisdiction over this provision in conjunction with the Agriculture Committee.

I ask the Senator from Missouri if my understanding of this jurisdictional matter is correct.

Mr. BOND. I agree with the Senator from Massachusetts that we have reached that understanding.

Mr. KENNEDY. I thank my friend.

Mr. SANTORUM. I ask unanimous consent the amendments be agreed, to en bloc.

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

The amendments (Nos. 5148 and 5149) were agreed to, en bloc.

Mr. SANTORUM. Mr. President, I ask unanimous consent the bill be deemed read the third time and passed, and the motion to reconsider be laid upon the table.

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

The bill (H.R. 2428) was deemed read the third time and passed.

Mr. BOND. Mr. President, I am pleased that the Senate supported overwhelmingly the passage of H.R. 2428, the Bill Emerson Good Samaritan Food Donation Act.

This is a tremendous tribute to my good friend and colleague from Missouri, Congressman Bill Emerson, who represented southeast Missouri's Eighth Congressional District for 16 years. Bill Emerson was well known in this body, and certainly to many around this city, and was loved by the people of southeast Missouri. He had a long and distinguished career of service in the U.S. Congress.

Bill was especially well known for his work in agriculture and in the fight against hunger, including being an ardent supporter of food distribution programs. One of his legislative priorities this session was a bill that would make it easier for millions of tons of unused food by restaurants, supermarkets, and other private businesses to end up in food pantries and shelters rather than in garbage cans and dumpsters.

The Bill Emerson Good Samaritan Food Donation Act is identical to legislation championed by Bill Emerson before his death. In the past, private donors have been reluctant to make contributions to nonprofit organizations because they are concerned about potential civil and criminal liability. With this legislation, private donors will be protected from such liability, except in cases of gross negligence and intentional misconduct. Those in need will truly benefit from this legislation.

Again, I am happy to be a part of this commonsense approach to fight hun-

ger, and I appreciate the cooperation of all Members involved in this process.

Mr. SANTORUM. Mr. President, I want to say this bill was a long time coming. We have been hassling through a variety of different amendments. I want to thank Senator LEAHY, Senator KENNEDY, and others for their cooperation in finally getting this bill to pass.

This is a bill that really is a tribute to a friend of mine and many here in this body, Bill Emerson, who recently passed away after a long bout with cancer. Bill did tremendous work in the area of nutrition on the Agriculture Committee in the House. This is a fitting tribute, a bill that will bear his name, that will provide much more food for food banks to be able to feed needy families all over this country.

I am very proud to have been involved with this effort. Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

#### HOMEMAKER IRA'S

Mrs. HUTCHISON. Mr. President, I want to say, along with many others who have talked about some of the really important legislation that has been accomplished in the last few weeks in Congress, along with the one that I have worked the hardest for, and the one that I think will have a lasting impact, not tomorrow and not next year, but 20 years from now, and that is the homemaker IRA's.

When I got to the Senate, I was very surprised that there was still the inequity against homemakers being able to save for their retirement security in the same way that someone who works outside the home is now able to do. In fact, this penalizes the one-income-earner family when the homemaker stays home and raises children. I think we should be encouraging homemakers to be able to do that, rather than discouraging them. That is why Senator MIKULSKI and I introduced the homemaker IRA bill in 1993.

We have been working for these 3 years, and this year, Senator ROTH, the chairman of the Finance Committee took up our cause. He and Chairman BILL ARCHER said that this would be a priority for them, and I want to thank Chairman ARCHER and Chairman ROTH for not only saying it would be a priority, but for delivering on that promise. They have delivered homemakers of this country an equal opportunity to save for their retirement security.

What this means, Mr. President, is that a homemaker will now be able to set aside \$2,000 a year toward retirement security, accruing tax-free. That can make a difference of over \$150,000 in a lifetime of savings, so that now a one-income-earner couple, if they both save the maximum amount for 30 years, would have around \$350,000 as a nest egg. That could make a big difference in retirement planning, espe-

cially for people who are squeezing to make ends meet so that one parent can stay home and raise the children.

So this is a wonderful accomplishment. It is one for which will not be appreciated, probably, in the near future because it does have to accrue into retirement. But this was a great bipartisan effort.

I do want to commend Senator LOTT for helping us move this through. I want to commend Senator ROTH and Congressman ARCHER for shepherding it through the committees in the House and Senate. I just want to say how much I appreciate Senator MIKULSKI, Senator FEINSTEIN, NANCY JOHNSON, and JENNIFER DUNN and SUSAN MOLINARI on the House side, along with BARBARA KENNELLY, for making sure that this did become an accomplishment of this session of Congress.

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

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997—CONFERENCE REPORT

Mr. COATS. Mr. President, in a moment, I am going to propound a unanimous-consent request that we move to the conference report to accompany H.R. 3230, the National Defense Authorization Act for fiscal year 1997. I note the absence of members of the other party on the floor. Obviously, they will want to be notified of this. I do not intend to pull any surprises here. I will be propounding that UC in a few moments.

The reason I do this, Mr. President, is that we have worked long and hard and very diligently this year to avoid the problems that we encountered last year in not moving the defense authorization bill for fiscal year 1996 as quickly as we would have liked. There were some issues that were contentious, and we had difficulty resolving some of those issues.

There was a determination on the part of the chairman and members of the committee this year to avoid the problem we had last year. I commend Senator THURMOND for the extraordinary work that he led in bringing this item to closure in a timely fashion. We held hearings earlier than we ever have, we held markups earlier than we ever have—at least since I have been on the committee—and we moved forward in an extraordinarily efficient way. We resolved the contentious issues and the differences between Members and between our parties on those issues, and we have legislation which now has passed both the House and Senate, and we have a conference report that we ought to be prepared to vote on.

Now, the reason why this is so important is that within this conference report are a number of significant items that are important to the security of