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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable RICHARD BURR, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal and dependable Creator, who harmonized the world with seasons and climates, sowing and reaping, color and fragrance, accept our grateful praise. Thank You for sustaining our lives in each season of living, for protecting us from dangers and for giving us Your peace.

Thank You for the members of our Government legislative branch, for their efforts to make our world better. As they plant seeds of freedom, prepare them for an abundant harvest. Remind them daily that You surround the upright with the shield of Your favor.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BURR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 27, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BURR, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BURR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today we will have a period of morning business until 11 a.m. At 11, we will resume consideration of the flag antidesecration resolution, which we began debate on yesterday. The time until 2:15 will be for debate only on the flag resolution.

Under the order from last night, we have controlled time, and Senators who would like to speak should consult with the managers and get in the queue.

Also, today we will recess for the weekly policy luncheons from 12:30 until 2:15 p.m. We will announce the voting schedule later today. However, we will not have any votes scheduled prior to the recess for the policy luncheons.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the first 15 minutes of time under the control of the majority leader or his designee, the next 15 minutes of time under the control of the Democratic leader or his designee, and the remaining time will be equally divided.

Mr. MCCONNELL. Mr. 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.

Mrs. MURRAY. Mr. 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.

Mrs. MURRAY. Mr. President, I ask for 15 minutes under the Democratic time.

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

EUROPEAN SUBSIDIES

Mrs. MURRAY. Mr. President, in the coming weeks, we are entering an important crossroad in the future of commercial aerospace. I wish to explain this morning what is at stake for our country and for American workers.

Down one road, American workers will be left to fight for their jobs with one hand tied behind their backs. They will face unfair competition, and our economy and our future could suffer. Down the other road, our Government will make it clear that we will fight for fair trade, and our economy and our workers will win as a result. That is the crossroad we are approaching, and which path we take will be determined by two things: whether Europe decides to provide illegal subsidies to Airbus and EADS and whether the U.S. Government works aggressively to keep that from happening.

For decades, Europe has provided subsidies to prop up Airbus and its parent company EADS. Those subsidies have created an uneven playing field and have led to tens of thousands of layoffs in the United States.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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In the past few years, the United States has stood up to Europe, and I have been proud to work with the Bush administration in that effort, first under U.S. Trade Representative Robert Zoellick, then under Rob Portman and now, of course, under USTR Susan Schwab. We have demanded that Europe stop the subsidies and play by the rules.

With the threat of a WTO trade case, we got the Europeans to the negotiating table, and I was hopeful that we could make progress. But over the past few months, Airbus and EADS have been in a tailspin over unsuccessful planes, production delays, and management scandals. Airbus is finally beginning to see how difficult it is to compete in the marketplace without the cushion of government subsidies. And it is floundering.

But now, rather than letting Airbus compete on its own in the marketplace, European governments seem poised once again to rescue Airbus with market-distorting subsidies.

If we want to keep a strong aerospace industry in America, we cannot let that happen. Every time the European government underwrites Airbus with subsidies, American workers get pink slips.

If we want to lead the world in commercial aerospace, our message to Europe must be strong and clear: No more illegal subsidies to prop up Airbus. Airbus must compete in the marketplace just like everyone else.

I first sounded the alarm on this important issue in March of 2004 when I spoke about my concerns here on the Senate floor. For those who have not been following the debate, I wish to provide some background.

Only two companies in the world make large passenger airplanes: the Boeing company, with its commercial air operation headquartered in Renton, WA, and Airbus, which is headquartered in Toulouse, France. Airbus is a division of the European Aeronautics Defense and Space Company, known as EADS.

The distance between Airbus and Boeing's headquarters is about as big as the disparity between how the United States and Europe view the commercial aerospace industry.

For us in America, commercial aerospace is a private industry, one that must respond to the needs of the marketplace and the demands of its shareholders. It is a difficult business, and many times manufacturers such as Boeing ''bet the company'' on a new airplane.

In Europe, on the other hand, commercial aerospace is viewed as a job-creation program. Airbus has been shielded from the dangers of the marketplace by decades of government subsidies. In fact, Europe doesn't seem to care if Airbus loses money as long as it produces jobs and those jobs come at the expense of American workers.

The history of Airbus and EADS is a history of government subsidies that have sheltered it from competition and real pressures of the marketplace. It has allowed Airbus to develop new aircraft with virtually no risk. This government assistance takes many forms, including launch subsidies, research subsidies, facilities subsidies, and supplier subsidies. These subsidies create an uneven playing field and allow Airbus to do things that normal private companies cannot afford to do. Because of those subsidies, Airbus has grown to become a market power without assuming any of the financial risk and accountability U.S. firms have to contend with every day.

As a result of this government support, Airbus has been able to erode Boeing's market share. Airbus's market share was once in the teens, but today Airbus claims to supply more than 50 percent of the industry.

But European government support of Airbus doesn't stop there. It includes everything from bribes to threats. There are reports of state airlines being promised landing rights at European airports if they buy Airbus planes, and we have seen countries threatened that they will not be let into the European Union unless they buy Airbus planes. There are reports of Airbus using deep discounts and guaranteeing to airlines that Airbus planes will hold their value.

To date, Airbus has received more than $15 billion in launch aid. But despite this massive infusion of government cash, Airbus and EADS are still hemorrhaging money and are undergoing a crisis in leadership at the highest levels. In fact, if anybody was to scan the newspapers this week, they could read about any number of problems Airbus and EADS have been confronted with. The Airbus A350 model has been widely condemned by major airline purchasers. It requires an expensive redesign, which is estimated to now cost between $9 billion and $10 billion. The A380 mega-jetliner, which Airbus spent more than $13 billion on developing, has secured only a small list of customers. Now it is plagued by delivery delays which could result in canceled orders and financial penalties for Airbus. In fact, according to recent reports, Airbus is facing the possible loss of orders worth more than $5 billion. The delays could reduce Airbus's annual earnings by $630 million between 2007 and 2010.

EADS also has a huge liability on its hands. It needs to buy out BAE Systems' share of Airbus, which is estimated to cost about $4 billion. On top of all of that, the co-chief executive of EADS, Noel Forgeard, is under investigation for insider trading.

By all accounts, Airbus is struggling. It is also losing credibility with its customers. In fact, when news broke about the A380's production delay, Singapore Airlines cast a no-confidence vote in Airbus by ordering 20 Boeing 787 Dreamliners.

One important customer who is taking notice is the U.S. Department of Defense. With Airbus's financial house of cards on the verge of collapse and no current U.S. manufacturing presence, it is becoming clear that EADS will not be able to give the U.S. Air Force the tanker of the future.

I am pleased that the Air Force has asked the right questions. In its request for information for the tanker contract, the Air Force asked potential bidders to provide them with information about launch aid and subsidies, including details about any government support, tax breaks, debt forgiveness, or loans with preferential terms they might have received. The Air Force clearly understands the need for transparency and a level playing field.

Any new subsidies to Airbus for tankers or other programs should end once and for all Airbus's campaign to access the U.S. Treasury.

To protect taxpayers and national security, the Air Force must exercise extreme caution if it continues to consider an Airbus tanker proposal.

As many of my colleagues know, my home State of Washington has a very proud and long history of aerospace leadership. On July 15, 1916, Bill Boeing started his airplane company in Seattle, WA, and since that day, Boeing and Washington State have shared the ups and downs of the commercial aerospace industry. In fact, just a few years ago, Boeing found itself struggling to keep up with Airbus, but through the sacrifice and hard work of more than 62,000 Boeing employees in Washington State and many more around the country, the company pulled itself up by its bootstraps. It recovered to once again evenly share the marketplace with Airbus, and it did so by producing a plane, the 787, which was just what the marketplace wanted.

Airbus, on the other hand, ignored the market's demand and produced a plane that few people wanted, and now they are being punished by the marketplace for their mistakes. But rather than take their lumps, they are likely to seek an illegal government bailout that would negate the hard work and sacrifice of Boeing employees.

Recently, an EADS spokesman called launch aid ''indispensable'' and said, ''Launch aid is the only available system right now'' to deal with Airbus's floundering market and design problems. How can aerospace workers in America compete with a competitor that never has to face the consequences for its failures?

Last week, President Bush met with EU leaders at a summit. Before his trip, I wrote to the President and urged him to raise the issue with European leaders. Time is running out. We are quickly approaching the Farnborough Airshow on July 17 when European Ministers are expected to decide whether to provide EADS with more launch aid.

I have supported this administration's willingness to go the distance at the World Trade Organization in its fight for fair markets. They stood up

for American aerospace workers after it became clear that negotiations with the Europeans were going nowhere. As a result, the WTO is now considering the subsidies case through its dispute settlement body.

The Senate is on record against Airbus subsidies. On April 11, 2005, the Senate unanimously passed S. Con. Res. 25. That is a resolution which called for European governments to reject launch aid for the A350 and for President Bush to take any action that he ''considers appropriate to protect the interests of the United States in fair competition in the large commercial aircraft market.'' The resolution also specifically encouraged the U.S. Trade Representative to file a WTO case unless the EU eliminates launch aid for the A350 and all future models.

The production of large civilian aircraft is now a mature industry in both the United States and Europe. It is now time that market forces—market forces, not government aid—determine the future course of this industry.

That crossroad I mentioned is coming up on us quickly. One road will leave American workers in a fight for their jobs, with the game stacked against them. The other road will give us a fair playing field where American workers can win through their hard work and American ingenuity. I hope for our country's future that we choose the right course, and it begins by sending a clear message from our government to Europe that the United States will not tolerate another round of illegal subsidies that kill American jobs. The clock is running, and the choice is ours.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. 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.

FLAG DESECRATION CONSTITUTIONAL AMENDMENT

Mr. JEFFORDS. Mr. President, I rise today in opposition to a constitutional amendment that would ban flag burning and other acts of desecration.

As I said during the recent debate on the Federal marriage amendment, I am very troubled by priorities put forth by the Senate majority. Our domestic programs are facing serious budget cuts. Millions of Americans are without health insurance. Gas prices are out of control while our Nation's reliance on foreign oil shows no sign of easing. And we still have no strategy for the war in Iraq. However, the Senate leadership has chosen to spend a portion of our limited days in session to bring up a constitutional amendment to ban flag burning.

Once again, we seem to be searching for a solution in need of a problem, and I am afraid the reason we are spending time on this topic is only for political gain.

As a veteran with 30 years in the U.S. Navy and the U.S. Naval Reserve, I know the pride that members of our Armed Forces feel when they see our flag, wherever they may be in the world. I share the great respect that Vermonters and Americans have for that symbol. I personally detest the notion that anyone would choose to burn a flag as a form of self-expression.

Members of the military put their lives on the line every day to defend the rights guaranteed by the U.S. Constitution. It is disrespectful of these sacrifices to desecrate the flag.

However, in my opinion, our commitment to free speech must be strong enough to protect the rights of those who express unpopular ideas or who choose such a distasteful means of expression. This concept is at the core of what we stand for as Americans.

Mr. President, I have given this constitutional amendment a great deal of thought. I must continue to oppose this amendment because I do not think we should amend the Bill of Rights unless our basic values as a nation are seriously threatened. In my view, a few incidents of flag burning, as upsetting as they may be, do not meet this high standard.

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

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

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. 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.

Mrs. FEINSTEIN. Mr. President, it is my understanding we are in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mrs. FEINSTEIN. But that it would be acceptable for me to speak on the pending business, which is the flag amendment.

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

FLAG PROTECTION AMENDMENT

Mrs. FEINSTEIN. Mr. President, I rise as the main Democratic sponsor of this amendment. I have given this a lot of thought for a long time. I believe what we have before us is language that is essentially content neutral. It is on conduct—not speech. I will make that argument later on in my remarks, but I begin my remarks with how I came to believe that the American flag is something very special.

For those of us who are westerners, the Pacific battles of World War II had very special significance.

Reporters were not embedded, there was no television coverage, and the war in the Pacific was terrible—island battle after island battle—the death march at Guadalcanal, Tarawa, and onward.

On the morning of February 24, 1945, I was a 12-year-old. I picked up a copy of the San Francisco Chronicle. There on the cover was the now iconic photograph done by a Chronicle photographer by the name of Joe Rosenthal, and it was a photograph of U.S. marines struggling to raise Old Glory on a promontory, a rocky promontory above Iwo Jima.

For me—at that time as a 12-year-old—and for the Nation, the photo was a bolt of electricity that boosted morale amidst the brutal suffering of the Pacific campaign.

The war was based on such solid ground and victory was so hard-pressed that when the flag unfurled on the rocky promontory on Iwo Jima, its symbolism of everything courageous about my country was etched into my mind for all time. This photo cemented my views of the flag for all time.

In a sense, our flag is the physical fabric of our society, knitting together disparate peoples from distant lands, uniting us in a common bond, not just of individual liberty but also of responsibility to one another.

Supreme Court Justice Felix Frankfurter called the flag ''The symbol of our national life.'' I, too, have always looked at the flag as the symbol of our democracy, our shared values, our commitment to justice, our remembrance to those who have sacrificed to defend these principles.

For our veterans, the flag represents the democracy and freedom they fought so hard to protect. Today there are almost 300,000 troops serving overseas, putting their lives on the line every day to fight for the fundamental principles that our flag symbolizes.

The flag's design carries our history. My proudest possession is a 13-star flag. When you look at this flag, now faded and worn, you see the detail of the 200-year-old hand stitching—and the significance of every star and stripe.

The colors were chosen at the Second Continental Congress in 1777. We all know them well: Red for heartiness and courage; white for purity and innocence; blue for vigilance, perseverance, and justice. Even the number of stripes has meaning—13 for 13 colonies.

Our flag is unique not only in the hearts and minds of Americans, but in our laws and customs as well. No other emblem or symbol in our Nation carries with it such a specific code of conduct and protocol in its display and handling.

For example, Federal law specifically directs that the flag should never be displayed with its union down, except as a signal of dire distress or in instances of extreme danger to life or property.

The U.S. flag should never touch anything beneath it: neither ground, floor,

water, or merchandise. The flag must be lit at night. It should never be dipped to any person or thing. And the flag should never be carried horizontally but should always be carried aloft and free.

The flag flies over our government buildings throughout the country. It flies over our embassies abroad, a silent but strong reminder that when in those buildings, one is on American soil and afforded all the protections and liberties enjoyed back home.

Last December, I traveled to Iraq and met with some of the brave men and women in the armed forces that are serving there. We flew out of Baghdad on a C–130 that we shared with a flag-draped coffin accompanied by a military escort.

The young man or woman in that coffin gave their life under the banner of this flag.

In 1974, Justice Byron White wrote that:

> It is well within the powers of Congress to adopt and prescribe a national flag and to protect the unity of that flag. . . . [T]he flag is an important symbol of nationhood and unity, created by the Nation and endowed with certain attributes.

Justice White continued:

> [T]here would seem to be little question about the power of Congress to forbid the mutilation of the Lincoln Memorial or to prevent overlaying it with words or other objects. The flag is itself a monument, subject to similar protection.

I echo the opinion of Justice White: ''The flag is itself a monument, subject to similar protection.''

The American flag is our monument in cloth.

The flag flying over our Capitol building today, the flag flying over my home here and in San Francisco, each of these flags, separated by distance but not symbolic value, is its own monument to everything America represents. And it should be protected as such.

There is a sturdy historical and legal foundation for special protection for the flag. Constitutional scholars as diverse as Chief Justices William Rehnquist and Earl Warren and Associate Justices Stevens and Hugo Black have vouched for the unique status of the national flag.

On June 14, 1777, the Continental Congress passed the first Flag Act:

> Resolved, That the flag of the United States be made of thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field, representing a new Constellation.

Historically, the flag has been protected by statute. In 1989, 48 of our 50 States had statutes restricting flag desecration. However, that protection ended in 1989.

That year the Supreme Court, by a vote of 5 to 4, struck down a Texas State law prohibiting the desecration of American flags in a manner that would be offensive to others in the Texas v. Johnson case.

Although the Court held that the government has ''a legitimate interest in making efforts to 'preserv[e] the national flag as an unalloyed symbol of our country,' '' it nevertheless concluded that burning the flag constituted speech under the first amendment, and that the Texas statute outlawing flag desecration was an impermissible regulation of the content of a person's speech.

Supreme Court Justice John Paul Stevens wrote in his dissent in Johnson that the flag is:

> a symbol of our freedom, of equal opportunity, of religious tolerance, and of good will for other peoples who share our aspirations.

I agree with Justice Stevens.

In response to the Johnson case, Congress passed the Flag Protection Act of 1989, which sought to ban flag desecration in a ''content-neutral'' way that would be permitted by the courts. Nevertheless, the Supreme Court struck down that Federal statute as well.

In that case, United States v. Eichman, the Supreme Court, by another 5-to-4 vote, held that although the Federal statute prohibiting flag desecration did not limit speech based on content, which had been found unconstitutional in Johnson, the statute still violated the first amendment because Congress's intent in passing the statute was ''related to the suppression of free expression.''

The Supreme Court has spoken, and I do not wish to quarrel with its decisions.

However, the Johnson and Eichman decisions make it clear that without a constitutional amendment no Federal statute protecting the flag will survive judicial review.

Consequently, the only avenue available for restoring protection to the flag is to amend the Constitution. Otherwise, any legislation passed by Congress or State legislatures will simply be struck down.

The Constitution itself prescribes instructions for its amendment when nepessary for the good of the Nation. And the Constitution is, after all, a living text that has been amended 27 times since its creation.

I do not take amending the Constitution lightly. It is a serious business and we need to tread carefully. However, the change we seek to make is narrow, it is limited, and it is necessary.

Some critics say we must choose between trampling on the flag and trampling on the first amendment. I strongly disagree.

The freedom of speech enshrined in the first amendment is a cornerstone of our great Nation.

However, there is no idea or thought expressed by the burning of the American flag that cannot be expressed equally well in another manner. While I might disagree with those who protest, I defend their right to do so.

Protecting the flag will not prevent anyone from expressing his or her point of view, regardless of what that point of view may be.

Indeed, the Supreme Court has recognized many instances in which speech is not protected, such as obscenity and ''fighting words.'' I believe that desecrating an American flag falls into the same category.

Limiting this very specific conduct will leave both the flag and speech safe.

Amending the Constitution for this narrow and necessary purpose is an implicit recognition of the depth and breadth of the first amendment. What could more clearly signal the scope and strength of our freedom of speech than the fact that even protecting our Nation's symbol from desecration requires a constitutional amendment?

I would like to assure those with reservations about amending the Constitution that the path we are taking is no slippery slope.

There will be no stampede of constitutional amendments that could erode our freedom of speech. There will be no litany of restrictions.

There has been much confusion surrounding this amendment.

It does not prohibit flag burning, as is so often stated. This amendment would, quite simply, enable the Congress—you and I and our 98 other Members, Mr. President, as well as the 435 Members of the House of Representatives, and the President of the United States—to set the protocols governing our flag and protecting it as it has been protected throughout most of this Nation's history.

In other words, we will hold hearings. We will devise legislation. We will debate that legislation on the floor of both bodies. The purpose is to enable this body and the other body to establish a protocol for the handling of the American flag. No more, no less. It is content neutral. It does not ban desecration, burning, defiling, or anything else.

Let me read the text of the amendment:

> The Congress shall have the power to prohibit the physical desecration of the flag of the United States.

Just as 48 States debated this prior to 1989, and just as 48 States made a decision and passed legislation, the Congress of the United States would now have the power.

That is it. No more. No less.

The resolution—if passed by three-quarters of the 50 State legislatures—would merely return to Congress its historical power to prohibit the physical desecration of the flag.

The amendment will enable Congress to have a full and fair debate on the appropriate protections for the flag.

As President Woodrow Wilson, who proclaimed the first Flag Day in 1916, said:

> This flag, which we honor and under which we serve, is the emblem of our unity, our power, our thought and purpose as a nation. It has no other character than that which we give it from generation to generation. . . . Though silent, it speaks to us—speaks to us of the past, of the men and women who went before us, and of the records they wrote upon it.

In honor of this emblem of America, I ask that this body permit us to give

the American people the opportunity to decide if the Constitution should be amended. It is time to let the people decide.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FLAG DESECRATION AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S.J. Res. 12, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S.J. Res. 12) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit physical desecration of the flag of the United States.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I would like to say a few words about this amendment this morning because there seems to be a lot of misunderstanding about it. There are those who believe this amendment interferes with First Amendment rights and privileges. It does not. The media has largely portrayed this amendment as a ban on flag desecration. It is not. This amendment is, pure and simple, a restoration of the Constitution to what it was before unelected jurists, in a 5 to 4 decision, changed it. In 1989, five justices ruled that flag desecration, including burning the flag or any number of similar offensive acts, is speech. Four of them, led by the opinion of Justice Stevens, one of the most liberal members of the Court, found that such conduct does not constitute speech.

Fifty State legislatures, both red States and blue States, have called on us to pass this amendment. There are 60 up-front primary cosponsors of this amendment. There are at least six others who have said that they will vote for it. If that is all true, we are 1 vote short of having 67, with just a few who may still be undecided. We are hopeful that they will understand that this amendment simply says that ''Congress shall have power to prohibit the physical desecration of the flag of the United States.'' In other words, in passing this amendment, we would give to Congress the power that the Supreme Court took away from it when they decided the Johnson case in 1989. That is very important to understand.

Today, the distinguished chairman of the Judiciary Committee, Senator SPECTER, is holding a hearing on Presidential signing statements, which he and some others believe actually take away power from the Congress of the United States.

We have heard various Members on both sides of the aisle get up and say that they are tired of the other branches of Government, meaning the executive and judicial branches, taking away powers from the Congress. This amendment would restore power to Congress. That is its importance.

The amendment does not ban anything. It does not require the creation of a statute. It does not say what is and what is not desecration of the flag. That would have to be defined later, assuming that the Congress decides, under its own power, through its own Representatives, to try to pass a statute that would define physical desecration of the flag. And if Congress did, at some point in the future, decide to exercise this power, then I believe that the good Members of Congress would very narrowly construe in a statute what is and what is not desecration of the flag.

Once again, fifty States, 50 State legislatures, every State in the Union has called for this amendment. Sixty-six Senators, both Democrats and Republicans, support this amendment. We are hopeful that there will be one or two others who will vote with us, and I believe if we get that 67th vote we will have 75.

In addition, anyone who tries to say that this proposed amendment interferes with First Amendment rights has not read it, as many in the media have not. This amendment would have no effect on the First Amendment. It merely returns the power to protect the flag back to the Congress of the United States.

In his speech yesterday, Senator DURBIN, my dear colleague from Illinois, who is the Democratic whip, suggested that this amendment is unnecessary. He based his assertion on the supposition that there are relatively few incidents of flag desecration. So why bother, was basically his argument. Why should we address what appears to be a matter of minor significance?

I will tell you why. As I stated, this amendment does not ban anything. But let me assume, as Senator DURBIN did, that it does. Just one incident, just one, is enough to justify action. One flag burning is enough, I think, for most people in this country. Principles are not creatures of convenience, despite assertions to the contrary.

As my colleagues know, 48 States, plus the District of Columbia, had anti-desecration measures on the books before 1989. It was then that five unelected judges told those 48 sovereign entities that they were wrong.

Do my colleagues know the basis for the ruling? Five lawyers decided that all of these 48 State legislatures, as well as the District of Columbia, were wrong and that their measures were unconstitutional. But I ask, where does the Constitution say these measures are unconstitutional? Where in the text of the Constitution does it say this? The silence is deafening. We all know the Constitution does not say these measures are unconstitutional. Five lawyers came to this conclusion on the basis of a legal seance.

Now, I wonder, why did 48 States act in this area if anti-desecration laws are unnecessary? I will tell you why. Incidents of flag desecration are much more frequent than many of my colleagues have suggested.

The Citizens' Flag Alliance has been cataloguing reported incidents of flag desecration since 1994. Now, these are the incidents that are made public generally in the media. Their list is by no means comprehensive. There are many, many incidents of flag desecration, even some that are extremely offensive or even obscene, that are just not reported.

I know these people in the Flag Alliance. They are true citizen activists. They do not have high-priced lobbyists and $500-an-hour attorneys working for them. Many of them are working individuals who are simply committed to the values and ideals the flag represents. These hard-working individuals have devoted their time and energy fighting for the right to protect these values.

The Citizens' Flag Alliance has kept an eye on the news throughout the country to watch for reports of flag desecration. But with over 1,450 newspapers in this country it is no small feat to maintain a comprehensive list. Despite the difficulties in tracking these occurrences, the information that the Citizens' Flag Alliance has gathered appears to counter my colleagues' suggestion that there were not many incidents of flag desecration at all.

Since the Citizens' Flag Alliance began keeping count in 1994, there have been over 130 recorded incidents of flag desecration. In small rural areas as well as cities like Cincinnati, OH and Washington, DC, some of these people have defiled the very meaning of the flag by desecrating it, and, in many of those cases, more than one flag was desecrated.

For example, 10 flags were vandalized at the American Legion building on the Veterans of Foreign Wars post in New Hampshire just a few months ago. And, just last week in New York, there was an incident in which seven flags displayed on citizens' private property were desecrated and burned.

These reported occurrences of flag desecration are simply the tip of the iceberg. Besides the difficulties in monitoring the news for flag desecration incidents, there are many other acts of flag desecration that go unreported either because citizens know that the individual responsible cannot be prosecuted thanks to the Supreme Court

decisions or because the media just plain doesn't care.

I heard the other day that protesters recently desecrated an American flag at the funeral of one of our fallen soldiers at Arlington Cemetery. This is just in the last few weeks. I have yet to see this reported by the press.

The bottom line is that, while this may not be a common offense, it is an ongoing and perpetual offense against common decency. Like I said, one flag desecration is enough for the majority of people in this country, let alone hundreds of them.

Now, I would add that these counts miss the point. No matter how many incidents of flag desecration, the American people, through their representatives, should be allowed to pass judgment on this behavior. The courts, including the Supreme Court, used to understand this. They used to respect the considered judgment of the people's representatives. They understood that the desecration of this unique symbol, our symbol, the flag, had a unique impact on the communities that suffer through these events. The opponents of this constitutional amendment can only offer an admonition to grin and bear it, suggesting that we should all be bigger people and not worry about those desecrated flags.

I do not think my colleagues appreciate the harm done to these communities when flags are desecrated on our Independence Day, on Memorial Day, or on our Veterans Day.

The American people do. The American people understand that even one such event is one too many.

Consider these accounts and tell me these communities have not suffered. Let me refer to this chart. This is from the Las Vegas Review Journal. It is entitled: ''Misdemeanor Filed in Flag Burning in Las Vegas,'' dated September 14, 2004.

> [Stephen Drew] Hampton burned a U.S. flag during a tribute to the victims of the Sept. 11, 2001 terrorist attacks . . . Hampton set fire to a U.S. flag and waved it around before he was ushered out of the event by Las Vegas police and city marshals. Hampton also burned a U.S. flag last year on Sept. 11 in front of the New York-New York Hotel & Casino.

We were not even talking about the flag amendment then. This is simply the way some people handle our flag. This individual is by no means the only example.

The fact is that this is not a partisan issue. The American people want this amendment. This is an issue supported by Democrats, Independents, and Republicans nationwide. This amendment is supported in a bipartisan manner by both Democrats and Republicans in the Senate.

The problem is not that there is a rash of flag burning, although by anybody's count you would have to say there certainly is. This is not what this resolution is meant to address. Suggesting that we could only legislate to protect against widespread flag desecration is a red herring. What we are doing here is restoring the power of the American people over their own communities.

Let's be honest about it. This amendment is a very simple amendment. It says nothing about banning flag desecration. It does nothing to the First Amendment. It simply says we are going to return this issue back to the Congress where it should have been to begin with. This amendment says these words:

> The Congress shall have power to prohibit the physical desecration of the flag of the United States.

Does that mean the Congress has to prohibit desecration of the flag? No. Will the Congress? I hope so. But the Congress does not have to. Even if, assuming this amendment is passed by this body and ratified by 38 States, Congress decides to bring forth a statute, it would still have to have a supermajority vote in the Senate because of those who would be opposed to it, who would filibuster it, and who would require us to invoke cloture. Therefore, it would only pass after the whole Congress has spent a considerable amount of time figuring out how best to define flag desecration.

Mr. President, I notice the distinguished Senator from Florida is on the floor and would like to make some remarks, so I will relinquish the floor at this time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Mr. President, it is a real honor to follow the Senator from Utah on an issue of constitutionality, where I know he has had a great impact in the life of our Nation through the distinguished history he has had as a Senator. I know from his many years of serving in the Judiciary Committee that he is one who jealously guards and understands the importance and the meaning of our Constitution.

Mr. President, I wish to speak on this issue of the amendment to protect the flag of the United States, and I wish to begin by speaking about it in a slightly different angle, as someone who, as a young boy in school—I think it was when I reached the fifth grade—was charged with the responsibility of raising the flag in the morning and then bringing it down and protecting it and moving it into a safe place for the evening, until the next school day. I did that for the entire school year.

It was with great reverence and ceremony that this took place. I was, I remember, empowered with this responsibility as a young boy, which was one of the first I had, and I took it very seriously. The interesting thing is, it was in another place, in another land, and it was another flag. It was not the flag we honor and revere today, but it was the flag of the country of my birth, Cuba.

But what I noticed then and came to notice here is that people place great importance in symbols of national unity. No matter what country or where we are, there are very special symbols that from time to time touch a cord within the nation.

No greater evidence of the importance of this symbol can be given than through the history of our country, the stories we have heard and come to know of great heroism in battle, such as that of a soldier, perhaps at great risk to his own life, who would go to save the flag, go to save the colors—the symbol of the Nation he was fighting for and representing. And many soldiers in the history of our Nation have done just that.

So it seems almost odd there should be a heated debate. I understand the reason for the debate. It is rooted in the principles of constitutional freedom. It is rooted in the desire to honor those first 10 amendments to the Constitution, which are really what we call the Bill of Rights and the right of free speech.

But I do recall, early in law school, studying constitutional law, learning that all rights enshrined in the Constitution have certain limits within them, that they all have certain boundaries, that there is no such thing as unlimited rights. Although we treasure and value our right of free speech, I do believe it is important we understand there are some things that ought to be protected.

We protect our national monuments, not just because they are pieces of property that are beautiful and what they represent, but it is really more about the symbol of what they are. The national monuments are protected because they are a symbol of something special in our Nation, and it might be a person, it might be a historical moment in time.

Likewise, this very special symbol of our Nation, our flag, is one I believe we should also protect. It is protected in a simple way. It is about the balance of power within our Nation. It is about the difference between those things which are reserved for the judicial branch and others which are placed in the hands of the legislative branch.

What the Congress seeks to do in proposing this amendment to the American people, in placing it in a place where it can now enshrine forever what was attempted to be done legislatively a number of times, which the courts have chosen to strike down, is to say the legislative branch of Government, that branch closest to the people, elected by the people, shall have the right and the power to prohibit the physical desecration of the flag of the United States. That is what the article would say:

> The Congress shall have power to prohibit the physical desecration of the flag of the United States.

When I was young, another life experience, now being shared by my youngest son, was being a Boy Scout. We see Boy Scouts through the halls of our Congress, visiting here, seeing our sacred monuments, seeing our places where this Republic has been a beacon of hope, the ''shining city on a hill'' to

many people around the world. When they come and relish what they see, they come with a certain pride. They have learned also, as young boys, to protect the flag, to defend the flag, to honor the flag, and to treat it with that very special respect which is expected for something as important as a symbol of national unity.

So I am an encouraged supporter of this amendment because I believe it is important that as our Nation goes forward we always respect and honor the opportunity and the right of those who disagree with the policies of our Government to freely express themselves, to have no place where they cannot speak. I understand the meaning of freedom, the meaning of the right of free speech. However, I do also understand the very special nature of what the flag represents. In that situation, I believe there are many opportunities available to those who wish to protest, to those who wish to express a point of view different from the Government, that can be expressed in ways that do not afront, that do not offend, and do not destroy that very important symbol of national unity which we have made our flag and which our flag has been.

So I am proud today to support this amendment. I believe it is important that it be a constitutional amendment because we know that past efforts to legislatively fix the problem—to legislatively say to all that this symbol of national unity is so important that we deem it important enough to protect in a very special way—have been frustrated by the inability of the courts to agree with a clear direction the legislative branch has imposed on this. So then it is upon us to allow the people of this country to vote on this issue and to allow the various State legislative bodies to move on this issue and to seek to preserve for evermore this symbol of national unity.

This amendment seeks to prevent the physical abuse of a symbol that has served our country in many valuable ways through its history. It does not do so by restricting anyone's speech but by addressing their physical conduct. We are a free and vibrant people, and we owe that to those who have gone before us, and to those who serve us now, in protecting our national interests. Desecrating the flag does nothing to celebrate or enhance our expressive freedoms, while it clearly dishonors those who have seen the flag as a basis for their service and sacrifice.

So I strongly urge my colleagues to support this amendment and protect the most prominent and visible symbol of the freedom that America represents to the world.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. FEINGOLD. Mr. President, I strongly oppose S.J. Res. 12. Make no mistake, we are talking here today about modifying the Constitution of the United States to permit the Government to criminalize conduct that all of us find offensive and wrong, but that is protected by the first amendment. This amendment would, for the first time, amend the Bill of Rights. I cannot support this course.

Let me make one thing clear at the outset. Not a single Senator who opposes the proposed constitutional amendment, as I do, supports burning or otherwise showing disrespect to the flag. Not a single one. None of us think it is ''OK'' to burn the flag. None of us view the flag as ''just a piece of cloth.'' On those rare occasions when some malcontent defiles or burns our flag, I join everyone in this Chamber in condemning that action.

But we must also defend the right of all Americans to express their views about their Government, however hateful or spiteful or disrespectful those views may be, without fear of their Government putting them in jail for those views. America is not simply a Nation of symbols, it is a Nation of principles. And the most important principle of all, the principle that has made this country a beacon of hope and inspiration for oppressed peoples throughout the world, is the right of free expression. This amendment threatens that right, so I must oppose it.

We have heard at various times over the years that this amendment has been debated that permitting protestors to burn the American flag sends the wrong message to our children about patriotism and respect for our country. I couldn't disagree more with that argument. We can send no better, no stronger, no more meaningful message to our children about the principles and the values of this country than if we oppose efforts to undermine freedom of expression, even expression that is undeniably offensive. When we uphold first amendment freedoms despite the efforts of misguided and despicable people who want to provoke our wrath, we explain what America is really about. Our country and our people are far too strong to be threatened by those who burn the flag. That is a lesson we should proudly teach our children.

Amending the first amendment so we can bring the full reach of the criminal law and the power of the state down on political dissenters will only encourage more people who want to grandstand their dissent and imagine themselves ''martyrs for the cause.'' Indeed, we all know what will happen the minute this amendment goes into force—more flag burnings and other outrageous acts of disrespect of the flag, not fewer. Will the amendment make these acts any more despicable than they are now? Certainly not. Will it make us love the flag any more than we do today? Absolutely not.

It has been almost exactly 17 years since the Supreme Court ruled that flag burning is a form of political speech protected by the first amendment. Proposals to amend the Constitution arose almost immediately and have continued unabated. But while the interest of politicians in this course of action seems as strong as ever, public interest in it seems to be waning. Opinion polls show support for the amendment has fallen. Amending the Constitution to prohibit flag desecration is just not the foremost thing on the minds of the American people. Perhaps that is because it is long since clear that our Republic can survive quite well without this amendment. Nearly a generation has passed since the Texas v. Johnson decision, and our Nation is still standing strong. That alone shows that this amendment is a huge overreaction and an entirely unnecessary step.

The last time that the full Senate voted on, and rejected, this constitutional amendment was in the year 2000. I think it is fair to say that patriotism since then has not only survived without this amendment, it has flourished, and in very difficult times, much more difficult than the country faced in 1989, when the Supreme Court struck down flag desecration statutes, or in 1995 when I first voted on the amendment in the Judiciary Committee.

Indeed, outward displays of patriotism are greater today than they were in 2000. We all know why that is. Our country was viciously attack on September 11, 2001, and America responded.

We didn't need a constitutional amendment to teach Americans how to love their country. They showed us how to do it by entering burning buildings to save their fellow citizens who were in danger, by standing in line for hours to give blood, by driving hundreds of miles to search through the rubble for survivors and to help in cleanup efforts, by praying in their houses of worship for the victims of the attacks and their families.

September 11 inspired our citizens to perform some of the most selfless acts of bravery and patriotism we have seen in our entire history. No constitutional amendment could ever match those acts as a demonstration of patriotism, or create similar acts in the future. We do not need a constitutional amendment to teach Americans how to love their country or how to defend it from our enemies.

I know that many veterans fervently support this amendment. I deeply respect their opinions and their right to urge the Congress to pass it. But I also want the record to be clear that many of those who have served our country in battle oppose the amendment as well. In 1999, a number of veterans formed a group called the Veterans Defending the Bill of Rights. These veterans, who served our country in five

different wars, strongly believe it is wrong to pass an amendment to protect the flag that takes away the freedom the flag represents. I'd like to share with my colleagues the views of these brave veterans, who, in my opinion, represent the very best of the American spirit.

Let me start with the words of a veteran of our current conflict in Iraq. SPC Eric Eliason of Englewood, CO, served as an infantryman in the Army for 3 years, including 1 year overseas as part of Operation Iraqi Freedom. He said:

> We volunteered to go to war to protect the freedoms in this country, not watch them be taken away. . . . I consider myself an independent-minded conservative, and believe that creating unnecessary amendments to the U.S. Constitution is a betrayal of conservative principles.

Another veteran, Brady Bustany of West Hollywood, CA, who served in the Air Force during the gulf war, put it very simply. He said,

> My military service was not about protecting the flag; it was about protecting the freedoms behind it. The flag amendment curtails free speech and expression in a way that should frighten us all.

A veteran of the Korean war, Jack Heyman of Fort Myers Beach, FL, whose great grandfather fought in the Civil War, whose father served in World War I, and whose son served in Vietnam, explained his opposition to the amendment this way:

> I know of no American veteran who put his or her life on the line to protect the sanctity of the flag. That was not why we fulfilled our patriotic duty. We did so and still do to protect our country and our way of life and to ensure that our children enjoy the same freedoms for which we fought.

The leader of Veterans Defending the Bill of Rights is Professor Gary May of the University of Southern Indiana. Professor May, whose father, father-in-law, grandfather, and brother also served our country in the Armed Forces, lost both legs in the Vietnam War on April 12, 1968, over 38 years ago. He opposes this amendment, and because of what he has sacrificed for his country, he speaks more eloquently than I could ever hope to about the danger of this amendment. Professor May testified at the last Senate hearing held on the flag amendment, which, by the way, was held more than 2 years ago, on March 10, 2004. Professor May said:

> Freedom is what makes the United States of America strong and great, and freedom, including the right to dissent, is what has kept our democracy going for more than 200 years. And it is freedom that will continue to keep it strong for my children and the children of all the people like my father, late father in law, grandfather, brother, me, and others like us who served honorably and proudly for freedom.
>
> The pride and honor we feel is not in the flag per see It is in the principles for which it stands and the people who have defended them. My pride and admiration is in our country, its people and its fundamental principles. I am grateful for the many heroes of our country—and especially those in my family. All the sacrifices of those who went before me would be for naught, if an amendment were added to the Constitution that cut back on our First Amendment rights for the first time in the history of our great Nation.

Professor May also provided in his statement excerpts from letters he has received from other veterans who oppose the amendment.

One veteran, James Lubbock of St. Louis, MO, who served in World War II and has two sons who served in the Vietnam war, said:

> Let's not alter the Bill of Rights to save the flag. We should respect the flag, but we should all cherish the Bill of Rights much, much more.

These kinds of expressions move me deeply. The service of our troops shows the awesome power of the American ideal. The willingness of our young people to serve this country, to risk their lives, and endure unimaginable hardships on our behalf is not to be taken lightly. I believe that this remarkable spirit is inspired and nurtured by the principles on which this country was founded, by our devotion to the Constitution and the rule of law. We should not trifle with those principles. Too much is at stake. We know that now more than ever.

Despite the expected close vote, it is clear that this is a political exercise in an election year. We will spend several days of precious floor time, as the legislative session winds down, debating a measure that would undermine the Constitution while affecting only a handful of miscreants each year.

As we do so, humanitarian catastrophes continue to unfold around the world, posing a direct threat to international peace and stability and affecting the lives of millions upon millions of people.

I sincerely hope we will remember what this debate today is really about—not whether flag burning is a good idea, not whether we love and respect our flag, not whether patriotism is worth encouraging and celebrating, but whether the threat to our country from those who burn the flag is so great—is so great—that we must sacrifice the power and the majesty of the first amendment to the Constitution in order to prosecute them.

In 1999—it just so happens the Presiding Officer is the son of this man—the late Senator John Chafee, one of this country's great war heroes at Guadalcanal and in the Korean war, testified before the Judiciary Committee against this amendment. He said:

> [W]e cannot mandate respect and pride in the flag. In fact . . . taking steps to require citizens to respect the flag, sullies its significance and symbolism.

Senator Chafee's words still echo in my mind. They should serve as a caution to all of us who have the responsibility to vote on this amendment. What kind of symbol of freedom and liberty will our flag be if it has to be protected from misguided protesters by a constitutional amendment?

In concluding, Mr. President, I pay tribute to you and your father. I will vote to defend our Constitution against this ill-advised effort to amend it. I urge my colleagues to vote for liberty and freedom and for the first amendment by voting no on this constitutional amendment.

I ask unanimous consent that several letters be printed in the RECORD.

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

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, June 9, 2006.

Hon. PATRICK LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: On behalf of the American Bar Association, I write to urge you to vote against S.J. Res. 12, the proposed amendment to the U.S. Constitution that would allow Congress to prohibit the physical desecration of the flag of the United States.

Few things are more offensive to most Americans than the desecration of our flag. But, as important as the flag is to all of us, we must never protect it at the expense of the constitutionally protected freedoms it symbolizes. One of our most precious rights is the right to express our dissatisfaction with our government through peaceful words or conduct, both of which are forms of political speech and protected under the First Amendment, S.J. Res. 12 would enshrine a restriction on our fundamental right to free speech in the very document that protects our individual liberties. For the first time in our Nation's history a fundamental right would be denied for future generations.

The Bill of Rights has remained honored and intact, even during great times of conflict and stress for our nation, for over 200 years. As James Madison once stated, amending the Constitution should he reserved for ''great and extraordinary occasions.'' Infrequent incidents of flag desecration do not warrant undermining the freedom of speech guaranteed under the First Amendment. If we were to desecrate our Constitution to protect the flag's cloth from insult, we would do it great disservice to both.

All through human history, tyrannies have tried to enforce obedience by prohibiting disrespect for the symbols of their power. The American flag commands respect and love because of our country's adherence to its values and promise of freedom, not because of fiat and criminal law. America is not so fragile and our citizens' patriotism is not so superficial that they must be upheld by the mandate of a constitutional amendment to protect the flag.

We urge you to defend and preserve our cherished constitutional freedoms by rejecting S.J. Res. 12.

Sincerely,

MICHAEL S. GRECO.

VETERANS FOR COMMON SENSE,
Washington, DC, July 14, 2005.

Re Oppose the Flag Desecration Constitutional Amendment.

DEAR SENATOR: We, the undersigned members of Veterans for Common Sense, write to urge you to oppose S.J. Res. 12, the proposed constitutional amendment to prohibit ''desecration'' of the flag. This proposed amendment is an attack on liberty, and a disturbing distraction from the real concerns of our nation's veterans.

Veterans for Common Sense (VCS) was founded on the principle that in an age when

the majority of public servants have never served in uniform, the perspective of war veterans must play a key role in the public debate over national security issues in order to preserve the liberty veterans have fought and died to protect. VCS was formed in 2002 by war veterans who believe that we, the people of the United States of America, are most secure when our country is strong and responsibly engaged with the world. Three years later, our organization has over 12,000 members throughout the United States. Central to our mission is supporting United States servicemen and women, veterans and their families, and preserving American civil liberties as guaranteed in the U.S. Constitution and its amendments.

The United States is faced with a number of pressing concerns related to national security and the quality of life of veterans. We believe that the United States government and military has a responsibility to maintain and continue its work in Iraq so that the country comes out of this war as a stable, secure and sovereign nation where its people have the best opportunity for a decent and free life. The government also has a responsibility to ensure that United States servicemen and women come home safe.

Out of the 360,000 discharged veterans from Operation Iraqi Freedom and Operation Enduring Freedom, nearly one in four have already visited the Veterans Administration for physical injuries or mental health counseling. Our government has a duty and a responsibility to address both the traditional and nontraditional effects of war, including battlefield injuries, post-traumatic stress, and diseases resulting from vaccines and toxic exposures.

These concerns should be on the top of the congressional agenda this session. But instead of devoting its time and resources to resolving these urgent challenges, Congress apparently chooses to consider amending the Constitution to prohibit a form of nonviolent expression. We are dismayed by this choice.

We urge Congress to preserve American civil liberties as guaranteed in the United States Constitution and its amendments. When it comes to the measure under consideration, we believe that the supposed threat of a few incidents of flag burning does not justify the first ever amendment to the First Amendment. The ability to express nonviolent dissent to government policy is central to the American way of life, and we are loathe to amend away this fundamental liberty.

As veterans, we are indeed offended by those who burn or defile the flag. The flag is a cherished symbol of the freedoms we fought to defend, and we honor it as such. But we must not attempt to protect this symbol at a cost to the freedoms it represents. The Constitution of the United States has never been successfully amended to restrict liberty. To do so now would betray the promise and ideal of America.

The proposed constitutional amendment to ban ''desecration'' of the flag threatens the civil liberties of Americans. Further, it distracts from the real world concerns of our active duty military personnel and veterans. Congress should not be in the business of undermining freedom of speech. During this time of war, we urge you to put this unnecessary and dangerous constitutional amendment aside, and instead focus on protecting our national security, insuring our servicemembers in harm's way have what they need to accomplish the mission, and that when they return home they get the best possible care. Again, please oppose S.J. Res. 12. If passed, it will undermine the Constitution that we swore to support and defend.

Sincerely,

BG (Ret.) EVELYN FOOTE,
Army, Accokeek, MD and over 1300 veterans.

THE AMERICAN JEWISH COMMITTEE,
OFFICE OF GOVERNMENT AND INTERNATIONAL AFFAIRS,
Washington, DC, June 22, 2006.

Re: Flag Desecration Amendment (S.J. Res. 12)

DEAR SENATOR, On behalf of the American Jewish Committee, the nation's oldest human relations organization with over 150,000 members and supporters represented by 33 regional offices nationwide, I urge you to oppose !he Flag Desecration Amendment (S.J. Res. 12). This amendment to the United States Constitution would authorize Congress to prohibit the physical desecration of the U.S. flag.

The Flag Desecration Amendment would encroach upon Americans' First Amendment rights. While AJC would be appalled by the burning of the flag for political purposes. the amendment would undermine the very values of freedom of expression and peaceful dissent that our flag represents. The House of Representatives already passed its version or The Flag Desecration Amendment one year ago. If adopted by the Senate. this legislation would mark the first time Congress has amended our founding charter to diminish the precious freedoms protected by the Bill of Rights,

We therefore urge you to protect the First Amendment's guarantee of freedom of expression by opposing S.J. Res. 12.

Thank you for considering our view on this matter.

Respectfully,

RICHARD T. FOLTIN,
Legislative Director and Counsel.

NATIONAL COUNCIL OF JEWISH WOMEN,
June 23, 2006.

DEAR SENATOR: I am writing on behalf of the 90,000 members and supporters of the National Council of Jewish Women (NCJW) in opposition to the proposed amendment to the Constitution banning flag desecration (S.J. Res. 12).

NCJW is a volunteer organization, inspired by Jewish values, that works to improve the quality of life for women, children, and families and to ensure individual rights and freedoms for all. As such, we feel amending the Constitution in this way would threaten healthy civic debate, personal freedom of expression, and our fundamental democratic values.

As a symbol of our nation, the United States' flag represents our unique democracy and basic freedoms. The burning of the American flag constitutes dissenting expressive conduct, a right upheld by the US Supreme Court in Texas v. Johnson (1989). This Supreme Court precedent and our nation's history teach us that we must not protect this symbol at the expense of weakening the rights it represents.

As a senator, you are entrusted with protecting the rights and liberties of all Americans. I ask you to reaffirm your commitment to protecting these rights by opposing this egregious amendment.

Sincerely,

PHYLLIS SNYDER,
NCJW President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CARPER. Mr. President, like each of our colleagues in the Senate, I have a deep and abiding reverence for our flag.

As an 11-year-old Boy Scout, I learned flag etiquette and how we are supposed to show our respect for the flag. Later, I attended Ohio State University as a Navy ROTC midshipman and upon graduation took an oath to defend our country and its Constitution against all enemies both foreign and domestic.

I went on to serve our Nation as a naval flight officer for 23 years of Active and Reserve duty during the Vietnam war and until the end of the Cold War, much of it as a Navy P–3 mission commander.

We fly ''Old Glory'' on the front porch of our home throughout the year. We display it proudly in my Senate offices in Georgetown, Dover, and Wilmington, DE, as well as right here in Washington, DC.

Over the past 24 years, I have kicked off hundreds of townhall meetings by inviting attendees to stand and join me in pledging allegiance to our flag.

I wear an American flag lapel pin to work every day, and the American flag is even displayed on the Chrysler minivan I drive all over my little State.

I know it may sound old-fashioned or even corny to some, but I still get a lump in my throat more often than not when I pledge allegiance to our flag or sing our national anthem. In short, I love our flag and all of the good that it symbolizes about America.

In fact, I probably love our flag more today than all the days I have lived on this Earth. That is 59. But as much as I love our flag, I love our Constitution even more.

The U.S. Constitution is the foundation of the longest living experiment in democracy in the history of the world—America. Although written by man, I believe our Constitution was divinely inspired.

Among the rights that it guarantees us as Americans, none is more cherished than our right to freely express our beliefs. As much as we may disagree with the views of others, our Constitution seeks to guarantee that each of us has the right to convey our thoughts and views, however outrageous the rest of us may find them to be.

Our Constitution has been amended only 17 times since 1791 and just 6 times in my lifetime.

We have amended the Constitution to protect our freedom of speech, to worship God as we see fit, to protect our right to bear arms, and to ensure the right to a trial by a jury of our peers.

We have amended our Constitution to protect us from unlawful searches of our home and to guarantee our right to

assemble to present our grievances to those who serve us.

Constitutional amendments have abolished slavery, provided women and 18-year-old Americans with the right to vote, and limited our Presidents to serving just two terms in office.

The original Framers of our Constitution made it possible to amend the Constitution, but they did not make it easy. Our Founding Fathers believed they largely ''got it right'' the first time. History has demonstrated that they did.

When I served in Southeast Asia during the Vietnam war, flag burning was not uncommon. I was never in the presence of anyone who desecrated or destroyed our flag in protests then. It is hard to know for sure how I would have reacted, but it would not have been pretty.

Having said that, it has been a long time since I ever saw anyone burning or otherwise seeking to desecrate or destroy an American flag, and I am not the only one who feels that way either.

Former Secretary of State Colin Powell wrote several years ago:

> If someone destroys or desecrates a flag that is the property of someone else, that is a prosecutable crime. If someone is foolish enough to desecrate a flag that is their own property, do we really want to amend the Constitution to hammer a handful of miscreants?

In 1998, retired Green Beret Marvin Stenhammar testified before the Senate Judiciary Committee and addressed the two same questions above with this statement:

> As a true conservative, I ask you: When did it become conservative to recommend several changes to the Constitution? My brand of conservatism does not include this doctrine . . . I feel you—

''You'' being the Congress—

> have better things to do with your time and our tax dollars than changing the Constitution for something that rarely occurs and is typically done by immature idiots.

I have given this issue a lot of thought over the past 30 years. I have searched my heart, and I have concluded that once we let our passions subside, Colin Powell and Marvin Stenhammar have spoken the truth.

Flag burning or desecration, as we think of it, rarely does occur in this country today. In fact, last night, I was watching the news on television with my youngest son. The footage the networks were showing either dated back to the Vietnam war or they were images of foreigners burning a flag in Iraq or some other foreign countries.

I think that begs the question: Do we really need to amend the Constitution in an effort to eliminate a form of protest that almost never happens in America today? I am not convinced that we do.

Come to think of it, I don't recall a time in my life when there was a greater reverence for the American flag than there is today in our country.

I was reminded of that fact just last summer when I marched in Fourth of July parades throughout Delaware in places such as Hockessin, Smyrna, Laurel, and Bethany Beach and saw literally thousands of people of all ages waving, wearing, or displaying the stars and stripes.

All across America today, we see our flag proudly displayed on millions of homes, office buildings, factories, schools, stadiums, construction sites, bridges, and on the vehicles we drive.

A spirit of patriotism swept across our country since 9/11 in a way I have never witnessed in my life, and it has never fully subsided. That spirit is a source of comfort and inspiration to me, as I believe it is to millions of Americans everywhere.

The ''miscreants'' or the ''idiots'' who used to burn flags here did so to bring attention to their causes. They wanted to inflame passions in order to garner broader media coverage for those causes.

A Washington Post editorial of June 27, 2005—1 year ago today—said it better than I could. It said:

> When was the last time you saw someone burning a flag? If the answer is never, that's because it hardly ever happens. In fact, one of the few certain consequences of passing this amendment would be to make flag burning a more fashionable form of protest.

Given human nature today, the Post is probably right.

Another problem with the amendment is that just as beauty is in the eye of the beholder, so is flag desecration in several respects.

Most Americans would agree with us that burning an American flag in protest constitutes desecration, but how about a person covered with suntan lotion and perspiration lying on the sand on a hot sunny day at Bethany Beach or any beach for hours on an American flag beach towel? Or how about wearing an American flag swimsuit? What if a person wears American flag underwear, a neckerchief, or a sweatband of the stars and stripes?

What if they use their American flag neckerchief to wipe the dirt off their face or maybe even blow their nose on it? Do we really want to cause law enforcement officers, along with judges and prosecutors, to wrestle with questions such as these or do we want them fighting illegal drug trafficking, unlawful immigration, child abuse, assaults, rapes, and murders, and other serious crimes that are far more commonplace?

Let me suggest to my colleagues today not all behavior that dishonors our flag involves the physical desecration. I believe we desecrate our flag and what it symbolizes when we send American troops off to war without the body armor that they and their Humvees are supposed to have. I believe that we desecrate our flag and what it symbolizes if we don't provide for the needs of our soldiers when they come up with post-traumatic stress disorder, or without an arm, a leg, or their eyesight.

I believe we desecrate what our flag symbolizes when we discourage hundreds of thousands of Americans from voting by knowingly misallocating voting machines in some parts of America, causing people to give up after waiting for hours in line to cast their ballots.

I believe we desecrate what our flag symbolizes when we intimidate people whose religious beliefs are different from our own and try to compel them to worship God as we see fit. I believe that a handful of corporate CEOs desecrate what the American flag symbolizes when they loot the companies they lead and leave employees, pensioners, shareholders, and the rest of us holding the bag.

I believe we desecrate this beloved symbol of our country when we run up massive national debt that our children and our grandchildren will spend the rest of their lives trying to dig out from under.

I believe we desecrate what our flag symbolizes when some politicians who sought three deferments during an earlier war question the patriotism of those of us who served three tours of duty there or left three limbs on the battlefield of that war.

And I believe, my friends, that we desecrate all of the good that our flag symbolizes about America when we call on other nations to abide by the Geneva Conventions in providing humane treatment of the war prisoners they hold while we do not.

Mr. President, how much time do I have remaining, please?

The PRESIDING OFFICER. Seventeen seconds.

Mr. CARPER. Mr. President, I yield back the remainder of my time, and I will continue the rest of my speech at a later time today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, is there an order in effect for a time agreement? How much time do I have, in other words?

The PRESIDING OFFICER. The majority controls the time until 12:30.

Mr. CORNYN. Mr. President, I rise to address the resolution that is before us today and to speak in favor of its adoption. But before I do that, I think it is important first to read what the resolution says, because I think what we are actually going to be voting on has been misconstrued and, to some extent, inadvertently misrepresented. Also, during the course of my comments, I would like to address those who say that protecting Congress's prerogative to pass laws against flag desecration and those who say it is not important and emphatically disagree with them. And to those who say there are other things we can and should be doing, I say, well, we have been very busy doing a lot of very important things, but I certainly believe we have enough time in our crowded schedule to address this important issue as well.

There are also those who say amending the Constitution is simply something we should not do, even though we

have done so 27 times during the course of our Nation's history, and even though the 27th amendment to the United States Constitution provides that Congress can't increase its salary without having an intervening election. If we can amend the Constitution for that, which I agree is an important provision, we can certainly reinstate Congress's authority to pass laws protecting our national emblems and our national symbols such as the United States flag.

There are also those who try to get off—and again, I know people of good faith have serious disagreements. I don't mean to disparage the good faith of those who say this, but I would challenge those who say we can pass a statute and avoid having to pass a constitutional amendment. All I would say to that is: Been there. Done that. Doesn't work. The Supreme Court held that subsequent statutory provision unconstitutional, just like it did in the Texas case in 1989, the Texas law that prohibited desecration of the flag.

First of all, let me read the constitutional amendment being proposed, because there are some who say we are being asked to ban flag burning. In fact, this is a restoration of the authority under the Constitution to Congress to pass such laws as it deems appropriate, and we can talk about what the details of those bills would be later on, once the amendment is adopted. But it says, simply:

> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States.

The article says simply this:

> The Congress shall have the power to prohibit the physical desecration of the flag of the United States.

As I said, this constitutional amendment doesn't actually make it a criminal act to desecrate the flag; it doesn't say what the penalties will be. What this constitutional amendment does is reinstate Congress's historical authority to protect the flag against desecration and leave for a later date what exactly that statute, that bill, would look like.

The reason I feel so strongly about this provision is because of the unique nature of our national symbol. The American flag is a monument, a symbol of our freedom, our country, and our way of life. Why in the world would we refuse to protect it against desecration?

As a former President of the United States has noted:

> We identify the flag with almost everything we hold dear on Earth. It represents our peace and security, our civil and political liberty, our freedom of religious worship, our family, our friends, our home. We see it in the great multitude of blessings of rights and privileges that make up our country.

Another President has said it this way:

> Our flag is a proud flag and it stands for liberty and civilization. Where it has once floated, there must be no return to tyranny.

We not only pledge allegiance to the flag each day in the Chamber of the U.S. Senate; children across America recite those words at the beginning of each school day, too. We celebrate Flag Day on June 14 of each year. We pin to our lapels flag pins and paste it to the windows of our cars and trucks. Following 9/11, you could hardly buy a flag, because they were in such demand as a rallying symbol of American patriotism and resolve in the wake of that awful attack, as depicted by this well-remembered picture of first responders in New York erecting the American flag out of the rubble following the deaths of 3,000 innocent Americans.

We insist on special rules of etiquette when a flag is handled. When I was a Boy Scout growing up, that was one of the things you learned. You learned flag etiquette, how to demonstrate respect for this unique symbol of our country, including learning how, when the flag is old and tattered, that special rules of etiquette dictate its disposal.

By displaying the flag, we demonstrate our gratitude to the generations passed who have fought and died for our country. And we remind ourselves of the obligation that we have to preserve our freedom for the generations yet to come and to pass along to our children and grandchildren the blessings of liberty that we have come to enjoy because of the sacrifices of those who have gone before. We drape this emblem over the coffins of those who have died in service to our country, those who have given the last full measure of devotion to keep us and our freedom safe. We proudly fly the flag over our Capitol here in Washington, DC, and at State capitols and public buildings all over our country.

Mr. President, recently I read a book about the most famous picture in the history of photography. This is a picture we are going to put up on this board that all of you will instantly recognize. This is a picture of Marines erecting the American flag on Iwo Jima in World War II, where thousands upon thousands of Marines gave their lives to take this island from the occupiers. The book I read recently is called ''Flags of Our Fathers,'' written by a man named James Bradley; his father was John. John Bradley, the father of the author, stands in the middle of the most reproduced figure in the history of photography. Only days before this photo was taken, John Bradley, a Navy corpsman, had braved enemy mortar and machine gun fire to administer first aid to a wounded Marine and then dragged him to safety. For this act of heroism John Bradley would receive the Navy Cross, an award second only to the Congressional Medal of Honor.

One of the amazing things about this book, ''Flags of Our Fathers,'' about this photograph and about John Bradley's service to his country as a Marine Corpsman and the service of others of these Marines who erected this flag on Iwo Jima in World War II, is that John Bradley, like so many of the Greatest Generation, never spoke of this historic moment or really much of his military service to his family or friends.

This reminds me a lot of my dad, who was a B–17 pilot in World War II who, on his 13th mission helping to knock out part of Hitler's war machine in Nazi Germany, was shot down and spent 4 months in a German prison camp. And like John Bradley, my dad never talked much about his military service. But James Bradley, John Bradley's son, discovered three boxes of artifacts his father had saved about Iwo Jima after his death, which launched him into a quest to find out a little bit more about his father's past and the past of the five other flag-raisers depicted in this picture.

This book explores the lives of all of these flag-raisers, showing how in times of national crisis ordinary Americans have found within themselves an uncommon courage and a capacity to attempt, and achieve, the impossible.

Indeed, that is one of the things that makes the American flag unique. What becomes of a country that has no special symbols; that somehow, over the passage of time, has deemed itself too sophisticated, too intelligent, too cynical to be choked by emotion when our flag is raised or when the pledge is spoken or when our National Anthem is sung?

During the Civil War, as James McPherson, a internationally known historian of that period has noted:

> The most meaningful symbol of regimental pride were the colors—the regimental and national flags, which bonded the men's loyalties to unit, State, and Nation.

He records one combatant as saying:

> When the American flag appeared above the battle smoke on the enemy works, it is impossible to describe the feelings one experiences at such a moment. God, country, love, home, pride, conscious strength and power, all crowd your swelling breast. Proud, proud as a man can feel over this victory to our arms. If it were a man's privilege to die when he wished, he would die at that moment.

These are not my words; these are the words of those who, in the service of their country, gained inspiration and purpose from this symbol that is a unique symbol, unlike any other we have in this country.

But ultimately, there are those on the floor of the U.S. Senate who ask: Well, is this really important enough to amend the United States Constitution? To those I would say, the question is not whether the Constitution should be amended; it already has been by judicial decree. The question then remains, who gets the final word? Five Justices on the United States Supreme Court or we, the people?

Not important? I disagree. This, I believe, is the ultimate test of our form

of government, based as it is upon consent of the government. Our Founding Fathers recognized that our Constitution might need to be amended over time and thus article V of the Constitution creates a difficult but nevertheless a way forward to amend the Constitution when the American people see fit.

Of course, this process will not stop upon this body's passage of this amendment. Assuming we are able to get the two-thirds vote requirement in the Senate and in the House, then it will go to the States, where three-quarters of the States must ratify the amendment for it to become the 28th amendment to the United States Constitution.

I believe, to quote the Declaration of Independence, that the powers of the Federal Government emanate from ''the consent of the governed.'' In other words, I believe that we as a nation do not have to accept as final the judgment of five Judges who, in 1989, in the Texas v. Johnson case, held the Texas flag desecration law unconstitutional.

The amazing thing about this debate is I do not think there are very many people who recognize that before 1989, when the U.S. Supreme Court struck down the Texas flag desecration statute, 48 States, including the District of Columbia, had laws criminalizing flag desecration—48 States. But, lo and behold, 200 years after its adoption, five Judges decided that the first amendment of the Constitution of the United States, which guarantees free speech, renders all of those 48 flag desecration statutes unconstitutional as being a limitation on free speech. Don't mind the fact that it is really not about speech, it is about behavior. It is not about what you say, it is about what you do. But the Supreme Court, five members of the Court, didn't seem to have too much trouble with that.

Chief Justice Rehnquist, recently departed, in the dissent to that case of Texas v. Johnson in 1989 that struck down all 48 flag desecration statutes, wrote:

> The American flag, then, throughout more than 200 years of history, has come to be the visible symbol embodying our Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another ''idea'' or ''point of view'' competing for recognition in the marketplace of ideas. Millions and millions of Americans [Chief Justice Rehnquist said] regard it with an almost mystical reverence, regardless of what sort of social, political or philosophical beliefs they may have. I cannot agree that the first amendment invalidates the act of Congress and the laws of 48 of the 50 States which make criminal the public burning of the flag.

Justice Stevens, not necessarily of the same sort of judicial ideology or bent as Chief Justice Rehnquist, also dissented, and he said:

> The flag is more than a proud symbol of the courage, the determination, and the gifts of nature that transformed 13 fledgling Colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of good will for the other peoples who share our aspirations. . . . The value of the flag as a symbol cannot be measured.

Justice Stevens concluded:

> The case has nothing to do with ''disagreeable ideas.'' It involves disagreeable conduct that, in my opinion, diminishes the value of an important national asset . . .

And that Johnson, the defendant in that case, was punished only for the means by which he expressed his opinion, not the opinion itself.

I mentioned a moment ago that there are those of our colleagues who in good faith think that we can fix this problem by simply passing another flag desecration statute in the U.S. Congress. I would point out to my colleagues that we have already tried to do that right after the Texas v. Johnson case. The U.S. Congress overwhelmingly passed a statute which was struck down by the same five Justices on the U.S. Supreme Court in a case called United States v. Eichman.

It is clear that no statute can pass constitutional muster as long as the Texas v. Johnson decision is on the books. There are some who would offer an amendment—maybe during the course of this debate—who in good faith think that if they limit the reach of the statute to fighting words, in other words some act that would provoke violence in a public place, that somehow they have fixed the problem. But we are not just talking about provoking people by what is tantamount to fighting words by protecting the flag. We are talking about protecting a valuable national symbol of all of the things our country has come to mean, both to us and to those abroad; and that the good faith of our colleagues notwithstanding, no statute that we might pass could possibly fix the problem of five Judges assuming after 200 years that flag desecration is protected speech, that it violates the first amendment of the Constitution.

We all know as a matter of constitutional law that no statute can fix a constitutional violation. So only a constitutional amendment, passed by Congress and ratified by three-quarters of the States, could possibly fix this problem.

Those who complain and say this is an imaginary problem, that we do not have acts of flag desecration today or why are we talking about this in 2006 if the Supreme Court held this flag desecration statute unconstitutional in 1989, there is a very simple reason we are still talking about it today. It is because we have been working on it under the leadership of Senator ORRIN HATCH and others for 11 years.

I think the first constitutional amendment that was introduced was in 1995, and we have gradually been making progress each year by getting more and more support in the Senate. I hope our colleagues today will meet the challenge and deliver the 67 votes needed in this Chamber in order to move this constitutional amendment along.

To those who say this is an imaginary problem, I will say simply look at the facts. The Citizens Flag Alliance has a Web site in which they demonstrate 17 acts of flag desecration in the United States over the last 2 years. It may be these are not widely reported in the press. I am not sure exactly what the reason is. But there are 17 acts of flag desecration just in the last 2 years. This is not a contrived or imaginary issue.

I remember the ranking member of the Judiciary Committee, the Senator from Vermont, saying he was vehemently against the constitutional amendment because he didn't think we ought to tamper with the Constitution—notwithstanding the Founding Fathers provided article V to give us a means to amend the Constitution when a sufficient number of people in the Congress and across the country see fit. But I think he said something like: If anyone had the temerity to desecrate the flag in his presence, they wouldn't need a statute criminalizing that act. They would have to get past him to get to wherever it was they were going, suggesting that perhaps individuals who were sufficiently motivated might, through acts of violence, perhaps, dictate justice.

I do not think that is a sufficient answer. This is a real issue. It is not contrived, as demonstrated by the 17 acts of desecration in the last 2 years. It is not a problem we can fix by passing a statute and patting ourselves on the back and saying: Yes, we fixed that problem. This is a problem that calls for a constitutional amendment.

Yes, I know how serious that is. I don't lightly suggest amendments to the Constitution. But I sincerely believe in my heart of hearts this unique symbol of our country and all of our aspirations and dreams—not only for people here but the kinds of aspirations and dreams that are a beacon to those who will come here in the future, and the generations that come here after—I believe it deserves special protection. Thus, I believe we ought to take this opportunity to say yes.

Congress does have a voice in this. Yes, the American people do have a voice in whether the flag is protected. The only way we can do that is by passing this resolution by two-thirds of the Senate and moving this process along and then leaving it up to the people of America, the three-quarters of the States that will have to ratify this before it becomes final. Let them have a word.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. CORNYN. I thank the Chair.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:26 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

FLAG DESECRATION AMENDMENT—Continued

The PRESIDING OFFICER. The Senator from Maine—Vermont.

Mr. LEAHY. Mr. President, both are beautiful States. Maine is the largest land area, the largest State in New England. Most people are surprised to know that Vermont is the second largest. We beat out New Hampshire by about 90 square miles—larger than Massachusetts, larger than Connecticut, larger than Rhode Island. Smallest in population, but we take a back seat to no one in our independence.

I am glad to see my friend, the Presiding Officer, the distinguished Senator, and distinguished former Governor.

I commend the senior Senator from Connecticut for his outstanding statement last night and the senior Senator from Illinois, our Assistant Democratic leader, for his cogent observations on this matter. The statement this morning by the Senator from Vermont, a veteran, a man of principle and courage, made me proud to serve with him in representing the people of our great State. I thank the Senator from Wisconsin, the ranking Democrat on the Constitution Subcommittee for his statement, and the Senator from Delaware, another veteran, for his well-chosen words, as well.

This morning we awoke to read the latest example of this administration's incompetence. Because of bureaucratic bungling, widows of those who have served this Nation and sacrificed for all of us have been denied the survivors' benefits to which they should be entitled. A leader of the Gold Star Wives of America, a group of 10,000 military widows, was quoted as saying:

> It is shameful that the government and Congress do not deliver the survivor benefits equally to all our widows with the same compassion and precision the military presents the folded flag at the grave.

Edie Smith is right and we should be ashamed.

This news follows other recent public reports that posttraumatic stress disorders among our veterans are on the rise. Instead of seeking to turn the flag into a partisan political weapon and the Constitution into a billboard for political slogans, for partisan gain, we should be working to fulfill the pressing needs of our veterans and their families. I wish the Senate would use its time to discuss and solve the real problems that real Americans are facing right now, instead of trying to stir public passions for political ends.

The Republican leadership so rushed this amendment to the floor that there was not a single Senate hearing on it in this Congress. It was marked up in a side room off the Senate Chamber rather than in the regular public hearing room for the Judiciary Committee with very little debate, and it was reported without a committee report. This is the second time in a month that this Senate is rushing to debate a constitutional amendment without following the procedures that ensure thoughtfulness in such an important debate on a proposal to change our fundamental charter and, in this instance, cut back on the Bill of Rights for the first time in our history.

It was noted today in one of the newspapers that the U.S. Senate—the conscience of the country—is expected to spend 4 days debating this amendment—1 for each incident of flag burning that purportedly occurred this year in a Nation of 300 million people. I respectfully suggest that in the less than 10 weeks left to us in session this year, the Senate's resources would be better spent working to improve veterans' health care services, survivors' benefits and protecting veterans' and Americans' privacy. We have just witnessed the largest theft of private information from the Government ever, the loss of information on more than 26.5 million American veterans, including more than 2 million who are in active service, nearly 80 percent of our active-duty force and a large percentage of our National Guard and the Reserve. Why? Because this administration was so incompetent they did not think to lock the door.

This same administration says we need a constitutional amendment to ban flag burning in order to protect our veterans. We are not going to do anything to protect their credit records; we are not going to do anything to protect their privacy. We will leave the door open on that. But we have to watch out for the flag.

Let me quote what a spokeswoman for the American Legion said recently:

> Our armed forces personnel have enough on their plates with fighting the global war on terror, let alone having to worry about identity theft while deployed overseas. A spokesman for the VFW said: This confirms the VFW's worst fear from day one—that the loss of data encompasses every single person who did wear the uniform and does wear the uniform today.

What does the Bush-Cheney administration say? If you are over there fighting in Ramallah and your identity has been stolen, don't worry. We have an 800-number you can call and maybe buy some insurance or something to protect your credit. Well, call once you are not getting shot at.

Because of the Bush-Cheney administration's recklessness, our veterans and our active-duty servicemembers are now worried whether their personal information is being sold on the black market or available to foreign intelligence services or terrorists. That adds up to a heckuva bad job for America's veterans and our men and women in uniform.

Compounding the incompetence was the misguided impulse of the administration to keep everything secret for as long as they could. Three weeks after the theft, it was finally disclosed. Three weeks after that, the administration finally announced that it would do what it should have done from day 1 by making credit reporting available to those affected. And the administration is still fighting paying for its mistakes. It is resisting the efforts by Senators BYRD and MURRAY to provide the money needed to pay for credit monitoring and proposing to take the money from veterans health care or other programs. That is wrong.

Such incompetence at the Bush-Cheney Department of Veterans Affairs is worse than anything I have seen in the six Presidential administrations I have served with. At some point, this administration better stop appointing and hiring cronies, and at some point it might really take responsibility. Then we could have some real accountability for their incompetence. The American people suffer, the veterans are at risk, but those in responsibility get medals and promotions and the Republican Congress never gets to the bottom of what happened to make sure it will not happen again.

Rather than work on our privacy and identity theft legislation, rather than proceed on a bill protecting veterans, such as Senator AKAKA's or Senator KERRY's, we are being directed to another divisive debate on a proposed constitutional amendment. The White House calls the tune, and this Republican-led Congress is quick to dance to it. This is a White House that does not even list ''veterans'' as an issue on its Web site.

The Nation's veterans—who have been willing to make the ultimate sacrifice for their country—deserve better. In his second inaugural, while the Nation was fighting the Civil War, President Lincoln concluded with words that became the motto of the Veterans Administration and remains on metal plaques around the Vermont Avenue doors of the VA office here in Washington:

> To care for him who shall have borne the battle and for his widow, and his orphan.

In this fundamental mission, this administration has lost its way.

What the Bush administration's budget says is that honoring veterans is not a priority, especially when it comes to medical care. The President's budget requests consistently fall short of the levels needed to provide necessary services and care. Secretary Nicholson had to admit a billion dollar shortfall last year after first issuing inaccurate and unfounded denials of his mismanagement. Secretary Principi before him had testified that the Veterans Department asked the White

House for an additional $1.2 billion but that it was denied.

Veterans groups and families know that even these budget requests are inadequate—nearly $3 billion less than what veterans groups like the American Legion, the Veterans of Foreign Wars, and the Paralyzed Veterans of America recommend in the Independent Budget. These organizations know what it will take to meet veterans' health care needs.

And when Democratic Senators, such as Senators MURRAY, AKAKA, or NELSON, offer amendments to fund veterans programs, Republicans refuse to support those amendments to bring funding up to the levels recommended by the independent budget and just plain common sense.

We heard in March 2004 from the chairman of the Citizens Flag Alliance, Major General Patrick Brady, that ''we have never fully met the needs of our veterans.'' This echoed General Brady's frank admission following our April 1999 hearing that ''the most pressing issues facing our veterans'' were not flag burnings but rather ''broken promises, especially health care.'' Sadly, it appears that playing politics with veterans' emotions rather than sustaining their health care is nothing new.

During the past 5 years, Congress has had to add billions of dollars more to the President's budget request just to fill gaps in basic services. If we had done as the President asked year after year, veterans' medical care would be in even worse shape. Unfortunately, this year the Congress is not off to an encouraging start. The most recent supplemental spending bill excluded almost $400 million in additional spending for the veterans' health care. Again, the administration said it did not need the additional funding—but our veterans need it.

The Bush-Cheney administration's budget for veterans does not account for the increase in demand for VA services during the Iraq war. With nearly 20 percent of those returning from Iraq reporting mental health problems and 35 percent of Iraq war veterans needing health care services, we are cutting the money. Consider the cost of inflation and the increased costs for medicine and services and you can understand why the American Legion projects that more than $1 billion is needed in further funding just to meet annual payroll and medical inflation costs.

Most disturbing is the move to make veterans contribute a larger share to provide their own health care. The Bush-Cheney administration continues efforts to impose onerous fees and copayments on our Nation's veterans. This parallels the demands on families to buy armor, helmets, and other supplies for their family members serving overseas in our Armed Forces. It is the first time since the Revolution that we have sent our forces out there having to buy their own equipment when they went to war.

The Bush administration plans to increase by almost $800 million this year the fees and collections from third parties for veterans' health care. They plan on imposing an annual enrollment fee and doubling prescription drug copayments for certain veterans. Veterans are being forced to subsidize their government health care. So much for the words on the veterans building in Washington.

I could go on and on describing the claims backlog, the longer waits, and the cuts in service. To add insult to injury, the GAO reported recently that hundreds of battle-wounded soldiers are being pursued for collection of military debts incurred through no fault of their own, due to long-recognized problems with military computer systems. The bottom line is that the administration's rhetoric toward veterans simply does not match its real priorities.

We seem headed back to the time after World War I when veterans had to come to Washington and live in tent cities to demand that the Government honor the words of President Lincoln and care for them and those others had left behind.

Instead of debating polarizing issues that we have talked about in election years, we should be acting to provide real resources for our men and women who served this country with honor and sacrifice.

I will ask to have printed in the RECORD a collection of recent newspaper articles on veterans needs.

I have stated my position on this flag-burning amendment before. I have stated before that Vermont, the 14th State to join the Union, joined the same year that the Bill of Rights was ratified, then joined by the 15th State. And that became the flag that we had for many years in this country, with 15 stars and 15 stripes. But we Vermonters want to make sure that our rights are being protected.

We amend the Constitution according to the Constitution when there is an urgent need to do so. We have never amended the Bill of Rights—never, ever. Since World War II, since the Civil War, no matter what the threat, we have never amended the Bill of Rights. Now we are being asked for the first time to amend the first amendment.

We are told there is an urgent need. My God, what is the urgent need? Especially since 9/11, more Americans fly the flag probably than any time in my lifetime. I fly the flag outside of my home in Vermont whenever I am there. I flew it for my son when he joined the Marines. I flew it when he finished his time in the Marines.

My flag is protected. If anyone were to steal it, destroy it, desecrate it, they could be prosecuted.

I fly my flag because I want to, and I protect it because I want to. I do not need a law to tell me to do so.

Mr. President, I ask unanimous consent that the aforementioned articles be printed in the RECORD.

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

MILITARY FAILS SOME WIDOWS OVER BENEFITS

(By Lizette Alvarez)

JUNE 27, 2006.—As Holly Wren coped with her 6-month-old son and the sorrow of losing her husband in Iraq last November, she assumed that the military's sense of structure and order would apply in death as it had in life.

Instead she encountered numerous hurdles in trying to collect survivor benefits. She received only half the amount owed her for housing because her husband, one of the highest ranking soldiers to die in Iraq, was listed as single, childless and living in Florida—wrong on every count. Lt. Col. Thomas Wren was married, with five children, and living in Northern Virginia.

She waited months for her husband's retirement money and more than two weeks for his death benefit, meant to arrive within days. And then Mrs. Wren went to court to become her son's legal guardian because no one had told her husband that a minor cannot be a beneficiary. ''You are a number, and your husband is a number'' said Mrs. Wren, who ultimately asked her congressman for help. ''They need to understand that we are more than that.''

For military widows, many of them young, stay-at-home mothers, the shock of losing a husband is often followed by the confounding task of untangling a collection of benefits from assorted bureaucracies.

While the process runs smoothly for many widows, for others it is characterized by lost files, long delays, an avalanche of paperwork, misinformation and gaps in the patchwork of laws governing survivor benefits.

Sometimes it is simply the Pentagon's massive bureaucracy that poses the problem. In other cases, laws exclude widows whose husbands died too early in the war or were killed in training rather than in combat. The result is that scores of families—it is impossible to know how many—lose out on money and benefits that they expected to receive or believed they were owed, say widows, advocates and legislators.

''Why do we want to draw arbitrary and capricious lines that exclude widows?'' asked Senator Mike DeWine, an Ohio Republican, who has sponsored legislation to close some of the legal loopholes that penalize widows. ''It seems to me we ought to err on the side of compassion for families.''

Mr. DeWine said Congress sometimes passes these loopholes without considering the ramifications. But money also plays a large factor, and Congress is sometimes compelled to keep down costs associated with the war. ''That's what you hear behind the scenes,'' Senator De Wine said.

The Army is also trying to address the problem, for example, with new call centers intended to help survivors navigate the bewildering bureaucracy. ''As we always have, we constantly re-evaluate how we conduct our business to see if we can improve,'' said Col. Mary Torgersen, director of the Army casualty affairs operations center.

But legislators and advocates working with widows say the problems are often systemic, involving payouts by the mammoth Department of Defense accounting office and the Department of Veterans Affairs.

A few widows simply fall through the cracks altogether. The consequences are hard felt: they run up credit card bills, move in with relatives to save money, pull their children from private schools, spend money on lawyers or dedicate countless frustrating hours to unraveling the mix-ups.

''We have had more of these cases than I wish to know,'' said Ann G. Knowles, president of the National Association of County Veterans Service Officers, which helps veterans and widows with their claims.

The Department of Defense offers widows a range of benefits, including retirement security money, health care, life insurance payouts and a $100,000 death gratuity. The Department of Veterans Affairs allocates a minimum $1,033 monthly stipend and temporary transition assistance, among other things.

Widows also receive money from the Social Security Administration.

But a benefit is only as valuable as a widow's ability to claim it. Just days after her husband was killed in Iraq by a roadside bomb, Laura Youngblood, who was pregnant with their second child, got another piece of sobering news from the Navy: Her mother-in-law, who had been estranged from the family for several years, would be receiving half of her husband's $400,000 life insurance payment.

Nearly a year later, Mrs. Youngblood, 27, is still trying to persuade the Navy that the military's accounting department lost her husband's 2004 insurance form naming her and her son as co-beneficiaries, along with the rest of his predeployment paperwork. The only forms the Navy can find are from 2003, listing an old address for her husband, Travis, an incorrect rank and no dependents.

The military paperwork was in such disarray, Mrs. Youngblood said, that her husband went months without combat pay and family separation pay because the defense accounting service did not realize he was in Iraq, where he was detached to a Marine Corps unit.

When the Navy said there was nothing it could do, the Marine Inspector General's office stepped in to investigate, forwarding findings to the Navy Inspector General's office. ''These were my husband's dying wishes: to take care of his children,'' said Mrs. Youngblood, who has hired a lawyer to help her. ''You honor his wishes. That's his blood money.''

Congress has won plaudits in the past two years for increasing the payment after a soldier's death from $12,420 to $100,000 and upping the life insurance payout from $250,000 to $400,000. It made available to some recent widows a retirement income benefit for free. Congress has also paved the way for more generous health and housing benefits. Adding to that, numerous states have recently introduced free college tuition and property tax savings.

''Since 9/11, the demands on survivors are greater and they are getting much more in benefits,'' said Brad Snyder, the president of Armed Forces Services Corporation, which helps survivors with benefits. ''The expectations of what we had in Vietnam were much lower.''

But to the widows, some of whom adapted their lives to conform to the military, following their husbands from place to place, the complications can sting.

Jennifer McCollum, 32, who was raised on bases and whose husband, Capt. Dan McCollum, a Marine Corps pilot, died in 2002 when his plane crashed in Pakistan, has been busy lobbying Congress to reverse gaps in the law that penalize some widows financially simply because of when their husbands died.

''The president, whom I support, said in the State of the Union address that he would not forget the families of the fallen,'' she said. ''Why have I had to go to D.C. five times this year?''

GAPS IN THE LAWS

Hundreds of widows are denied thousands of dollars in benefits because of arbitrary cut-off dates in the law. The family of a soldier who was killed in October 2003 receives less money than the family of a soldier who was killed in October 2005. ''It is shameful that the government and Congress do not deliver the survivor benefits equally to all our widows with the same compassion and precision the military presents the folded flag at the grave,'' said Edie Smith, a leader of the Gold Star Wives of America, a group of 10,000 military widows that lobbies Congress and the Pentagon.

Shauna Moore was tending to her newborn, Hannah, on Feb. 21, 2003, when she learned that her husband, Sgt. Benjamin Moore, 25, had been shot during a rifle training exercise at Fort Hood, Tex. Months later, after her grief began to subside, she noticed that she was not entitled to the same retirement benefits as more recent widows with children.

Congress allowed certain widows to sign over to their children their husband's retirement benefit, sidestepping a steep so-called military widow's tax. But the law applies only to the widows of service members who died after Nov. 23, 2003. Mrs. Moore is one of an estimated 430 spouses with children who are ineligible.

If that option were available to Mrs. Moore, she would collect an extra $10,000 a year until Hannah became an adult.

''It makes a difference, if you are a single mom,'' she said.

Last week, the Senate approved Senator DeWine's measure that would extend the benefit to widows whose husbands died as far back as Oct. 7, 2001, the start of the war in Afghanistan. The House did not approve a similar measure, which is tucked into the Senate Defense Authorization bill, so now the issue must be resolved in negotiations.

Hundreds of widows also fail to qualify for a monthly payment of $250 in transition assistance, from the Department of Veterans Affairs, paid to help children for two years after their father's death. It applies only to those spouses whose husbands died after Feb. 1, 2005. Those who lost husbands before February 2003 received nothing because their transition is presumably over, and those who were widowed from 2003 to 2005 received a smaller amount.

Congress has closed some glaring gaps in laws, including one that excluded many families from the $100,000 death benefit and the $400,000 insurance payout because the soldiers' deaths were not combat-related. The outcry forced Congress last year to include all active-duty deaths since Oct. 7, 2001, in those benefits.

THE LONG WAIT

Even good intentions demand patience. A much-upgraded health care benefit to help the children of service members who died on active duty has yet to be implemented after 18 months because the new regulations have not been written.

Because Champus/Tricare, the federal insurer for military families, does not recognize the law, widows are still paying out more money for health care, which some can ill afford.

The January 2005 law will greatly improve health care for all children. But Nichole Haycock's severely disabled son, Colten, 13, may not be among them.

Her husband, Sgt. First Class Jeffrey Haycock, 38, died in April 2002 after a run; Army doctors had failed to tell him about a heart condition they had discovered two months before. But because her husband did not die in a combat-related situation, her son was denied admission to a program for the disabled.

As she teeters on the brink of exhaustion, her two other children get short shrift. ''It's been very difficult to care for a child that is this severe by myself,'' Mrs. Haycock said. ''I would love to see my daughter and son in school events. But I can't do those things.''

Tricare officials cannot say for sure whether her son will be covered by the 2005 law when the regulations are written. Francine Forestell, the chief of its customer communications division, said federal regulators plan to interpret it as broadly as possible, ''but we can't promise anything,'' she said.

A LOST LIFE BUT NO INSURANCE

Few cases are as heartbreaking as the widow who winds up with little or no life insurance money after her husband's death. In many instances, the husband simply neglected to change the beneficiary. Little, if anything, can be done to recoup the money in such a case after it has been paid out, and advocates emphasize that couples must do a better job of educating themselves about benefits at pre-deployment family meetings.

But in some cases, widows said that they had done their jobs, had double-checked the paperwork and something still went wrong.

Staff Sgt. Dexter Kimble, 30, a marine, was killed Jan. 26, 2005, when his chopper crashed in an Iraqi sandstorm. It was his third deployment. Before he left, he redid all his deployment paperwork, after consulting with his wife, Dawanna. She noticed that the life insurance form on file still had designated his mother as a co-beneficiary.

''I said, 'What is this? Because I just had baby number four,' '' Mrs. Kimble said. ''He had not added baby number four to the paperwork, either. He said, 'Don't worry. I'm switching that and making you the sole beneficiary.' ''

After his funeral, Mrs. Kimble said her casualty assistance officer informed her that her husband's paperwork had not been filed on time. The system had processed the 2001 form, and her mother-in-law had received half the $400,000. Her casualty officer offered to call her mother-in-law and explain what had happened.

''I assumed it wouldn't be a question of if,'' Mrs. Kimble said about the money, ''but when.''

Mrs. Kimble, who lives in Southern California, did not get any money from her mother-in-law. She received $300,000—the death benefit and half of the insurance money—but used a chunk to help pay her extended family's way to the burial and to pay off the car and other debts. Maj. Jason Johnston, a public affairs officer for the Marine Corps Air Station Miramar, said the corps processed what it had. ''I'm not saying the system is infallible,'' he said. ''Anything is possible.

''If the Marine tells the spouse one thing and does another,'' he added, ''that is very unfortunate. But we have to go by what the marine puts in the system.''

Mrs. Kimble has taken a dead-end job in San Diego and is worried about the future. To get to work, she gets up at 4 a.m. She pulled one child out of private school. She left her home and is living with her children in a friend's empty house. She is also paying for child care for four children.

Lawrence Kelly, a lawyer who is representing Mrs. Youngblood and Mrs. Kimble, said the problem is not unlike that confronted by thousands of soldiers who have recently faced mistakes in their pay made by the military's mammoth accounting office. ''Same system, same bureaucracy, same results,'' he said.

Responding to concerns from widows, Congress last year passed a law stating that if there is a change in the beneficiary or in the amount of the insurance, a spouse must be notified. But the law left a major loophole: If a service member makes no change in his beneficiary after he marries—if his mother or father were originally named and he did not change it—his wife does not have to be notified.

''It has left me frustrated and very bitter,'' Mrs. Kimble said. ''We have already sacrificed our husbands. Our children are fatherless. For them to struggle financially is another blow.''

[From the Washington Post, April 27, 2006]

GAO SAYS GOVERNMENT PESTERS WOUNDED SOLDIERS OVER DEBTS

(By Donna St. George)

Nearly 900 soldiers wounded in Iraq and Afghanistan have been saddled with government debts as they have recovered from war, according to a report that describes collection notices going out to veterans with brain damage, paralysis, lost limbs and shrapnel wounds.

The report from the Government Accountability Office, to be released at a hearing today, details how long-recognized problems with military computer systems led to the soldiers being dunned for an array of debts related to everything from errors in paychecks to equipment left behind on the battlefield.

The problem came to light last year, as soldiers' complaints began to surface and several lawmakers became involved. The GAO had been investigating other pay problems caused by the defense accounting system and was asked by Congress to investigate debts among the battle-wounded.

The new report shows a problem more widespread than previously known.

''We found that hundreds of separated battle-injured soldiers were pursued for collection of military debts incurred through no fault of their own,'' the report said.

Last fall, the Army said 331 soldiers had been hit with military debt after being wounded at war. The latest figures show that a larger group of 900 battle-wounded troops has been tagged with debts.

''It's unconscionable,'' said Ryan Kelly, 25, a retired staff sergeant who lost a leg to a roadside bomb and then spent more than a year trying to fend off a debt of $2,231. ''It's sad that we'd let that happen.''

Kelly recalled the day in 2004 when, months after learning to walk on a prosthesis, he opened his mailbox to find a letter saying he was in debt to the government—and in jeopardy of referral to a collection agency. ''It hits you in the gut,'' he said. ''It's like, 'Thanks for your service, and now you owe us.''

The underlying problem is an antiquated computer system for paying and tracking members of the military. Pay records are not integrated with personnel records, creating numerous errors. When soldiers leave the battlefield, for example, they lose a pay differential, but the system can take time to lower their pay.

The government then tries to recoup overpayments, docking pay for active-duty troops and sending debt notices to those who have left the military. Eventually, the government sends private agencies to collect debts and notifies credit bureaus.

The computer system is so broken that 400 soldiers killed in action were listed as owing money to the government, although no debt notices were sent, the report said.

A total of $1.5 million in debts has been linked to the 400 fallen soldiers and 900 wounded troops. Of the total, $124,000 has been repaid. The government has waived $959,000, and the remainder of $420,000 is still owed.

Michael Hurst, a former Army finance officer in Arlington who has studied the issue, said the military should have taken action years ago to prevent the debts from being created.

''It's a complete leadership failure,'' he said. ''We can't expect the soldiers to notice mistakes in their pay that the paid professionals have failed to notice and correct.''

Although the GAO report focuses on battle-wounded soldiers who have separated from the military, there are probably others who were still on active duty when their debts caught up with them, Hurst said. Factoring those in, ''I would say thousands'' are affected by the problem, he said.

The GAO report said that 73 percent of the debts were caused by pay problems, including overpayments, calculation errors and mistakes in leave. Other debts were created when soldiers were billed for enlistment bonuses, medical services, travel and lost equipment.

House Government Reform Committee Chairman Thomas M. Davis III (R–Va.), who is holding the hearing, has called the phenomenon ''financial friendly fire.'' Yesterday, his spokesman, Robert White, reacted to the report, saying: ''Literally adding insult to injury, the systems that are supposed to nurture and support returning warriors too often inflict additional wounds to their financial health.''

In one case cited in the GAO report, the debts meant that a soldier's family had no money to pay bills and had to send an 11-year-old daughter to live out of state.

At today's hearing, Army and Defense Department officials are expected to testify about what is being done to correct the problem. A database of soldiers wounded in action has been created, but the GAO suggested that more needs to be done, including congressional action to forgive more soldiers' debts and provide refunds in certain cases.

Previously the GAO had issued 80 recommendations for improving the Army payroll processes. Army officials have said they are at work on those recommendations. An Army spokesman did not return calls yesterday requesting comment.

[From the Washington Post, May 24, 2006]

VETERANS ANGERED BY FILE SCANDAL—VA HAS CONSISTENTLY SCORED POORLY ON INFORMATION SECURITY

By Christopher Lee

Veterans brimmed with shock and anger yesterday at the loss of their personal data by the Department of Veterans Affairs, but in many ways the information security breach should not have come as a surprise.

The department has consistently ranked near the bottom among federal agencies in an annual congressional scorecard of computer security. For five years, the VA inspector general has identified information security as a material weakness and faulted officials for slow progress in tackling the problem.

As many as 26.5 million veterans were put at risk of identity theft May 3 when an intruder stole an electronic data file from the Aspen Hill home of a VA data analyst, who was not authorized to remove the data from his office. The electronic file contained names, birth dates and Social Security numbers of veterans discharged since 1975, as well as veterans who were discharged earlier and filed for VA benefits.

VA officials waited two weeks to call in the FBI to investigate the theft, the Associated Press reported, citing two law enforcement sources.

''To the best of my knowledge, the loss of 26 million records by VA is the largest by a federal agency to date,'' said Rep. Thomas M. Davis III (R–Va.), chairman of the House Government Reform Committee. ''Perhaps if the department improved its compliance with the existing information protection laws, this breach would not have happened. There seem to be two problems here: a department that's inadequately protected, and an employee who acted incredibly irresponsibly.''

In 2005, Veterans Affairs earned an F on the annual federal computer security report card compiled by Davis's committee, the same grade it has received every year but one since the scorecard began in 2001. (It got a C in 2003.) The government-wide average for 2005 was a D-plus, but there were wide variations—the Social Security Administration got an A-plus, while the departments of Defense and Homeland Security earned F's.

The report card measures compliance with the 2002 Federal Information Security Management Act, which requires agencies to test their systems, develop cyber-security plans and report on their progress.

''We continue to get a number of wake-up calls from these breaches that shows that we still have a ways to go before we have a truly robust information security posture nationally,'' said Greg Garcia, vice president for information security at the trade group Information Technology Association of America.

Veterans groups reported mounting anger and frustration.

Steve Kennebeck, 46, an Army sergeant who retired from the military in 1997 after 20 years, said he called a special VA toll-free number but was unable to learn whether he was among affected veterans. His father and two brothers, veterans all, are wondering, too.

''We've probably all been compromised,'' said Kennebeck, who lives in Washington. ''I'm angry. . . . If we had done something like that in the military, we'd be punished by courts-martial. We protect America, and do they protect our personal information? No. It's galling. Somebody's head should roll.''

VA officials did not return two telephone calls seeking comment yesterday. VA Secretary Jim Nicholson said Monday that the employee has been placed on administrative leave pending investigations by the FBI, the VA inspector general and local police. Nicholson said he has directed all VA employees to complete a computer security training course by the end of June.

Advocates called on the federal government to, at a minimum, pay to help veterans increase monitoring of their credit. ''The VFW feels strongly that the government must accept responsibility for any consequences of this inexcusable breach of trust with America's veteran community,'' Robert E. Wallace, executive director of Veterans of Foreign Wars, wrote Sen. Larry E. Craig (R–Idaho), chairman of the Veterans Affairs Committee. Craig has indicated he will hold hearings. The House Veterans Affairs Committee has scheduled a hearing for 9 a.m. tomorrow.

The Veterans Affairs Department provides millions of veterans with health care, home loans, disability compensation and a burial plot. In doing so, it collects Social Security numbers, service histories and medical records.

But the sprawling bureaucracy, with 220,000 employees nationwide, has not always been the best steward of sensitive data. In more than a dozen reports, audits and reviews since 2001, the VA inspector general has repeatedly cited the department for security problems in the handling of personal information.

In 2003, tests by IG staff showed that a hacker could gain access to veterans' protected medical information from outside the VA network.

In 2005, reviews found that access controls were not consistently applied at dozens of data centers, medical centers and regional offices. Recommendations included ensuring that background checks are performed on

VA and contract workers, restricting off-duty workers' access to sensitive information and providing annual security awareness training for employees.

In a report last November, acting Inspector General Jon A. Wooditch wrote that many of the security concerns the IG had reported on for years remained unresolved. He cited a March 2005 report, saying 16 recommendations still had not been implemented eight months later.

''We identified significant information security vulnerabilities that place VA at considerable risk of . . . disruption of mission-critical systems, fraudulent benefits payments, fraudulent receipt of health care benefits, unauthorized access to sensitive data and improper disclosure of sensitive data,'' he wrote. ''The magnitude of these risks is impeding VA from carrying out its mission of providing health care and delivering benefits to our nation's veterans.''

[From the Washington Post, June 20, 2006]

IRAQ WAR MAY ADD STRESS FOR PAST VETS—TRAUMA DISORDER CLAIMS AT NEW HIGH

(By Donna St. George)

More than 30 years after their war ended, thousands of Vietnam veterans are seeking help for post-traumatic stress disorder, and experts say one reason appears to be harrowing images of combat in Iraq.

Figures from the Department of Veterans Affairs show that PTSD disability-compensation cases have nearly doubled since 2000, to an all-time high of more than 260,000. The biggest bulge has come since 2003, when war started in Iraq.

Experts say that, although several factors may be at work in the burgeoning caseload, many veterans of past wars reexperience their own trauma as they watch televised images of U.S. troops in combat and read each new accounting of the dead.

''It so directly parallels what happened to Vietnam veterans,'' said Raymond M. Scurfield of the University of Southern Mississippi's Gulf Coast campus, who worked with the disorder at VA for more than 20 years and has written two books on the subject. ''The war has to be triggering their issues. They're almost the same issues.''

At VA, officials said the Iraq war is probably a contributing factor in the rise in cases, although they said they have conducted no formal studies.

PTSD researcher John P. Wilson, who oversaw a small recent survey of 70 veterans—nearly all from Vietnam—at Cleveland State University, said 57 percent reported flashbacks after watching reports about the war on television, and almost 46 percent said their sleep was disrupted. Nearly 44 percent said they had fallen into a depression since the war began, and nearly 30 percent said they had sought counseling since combat started in Iraq.

''Clearly the current Iraq war, and their exposure to it, created significantly increased distress for them,'' said Wilson, who has done extensive research on Vietnam veterans since the 1970s. ''We found very high levels of intensification of their symptoms. . . . It's like a fever that has gone from 99 to 104.''

Vietnam veterans are the vast majority of VA's PTSD disability cases—more than 73 percent. Veterans of more recent wars—Iraq, Afghanistan and the 1991 Persian Gulf War—together made up less than 8 percent in 2005.

VA officials said other reasons for the surge in cases may include a lessening of the stigma associated with PTSD and the aging of the Vietnam generation—explanations that veterans groups also suggest.

PTSD is better understood than it once was, said Paul Sullivan, director of programs for the group Veterans for America. ''The veterans are more willing to accept a diagnosis of PTSD,'' he said, ''and the VA is more willing to make it''

In addition, as Vietnam veterans near retirement age, ''they have more time to think, instead of focusing on making a living all the time, and for some this is not necessarily a good thing,'' said Rick Weidman, executive director for policy and government affairs at Vietnam Veterans of America.

Max Cleland, a former U.S. senator from Georgia and onetime head of the VA who was left a triple amputee by the Vietnam War, said the convergence of age and the Iraq war has created problems for many of his fellow veterans—as well as for himself.

''As we Vietnam veterans get older, we are more vulnerable,'' he said. When the war started in 2003, he said, ''it was like going back in time—it was like 1968 again.''

Now he goes for therapy at Walter Reed Army Medical Center and is wary of news from Iraq. ''I don't read a newspaper,'' he said. ''I don't watch television. It's all a trigger. . . . This war has triggered me, and it has triggered Vietnam veterans all over America.''

PTSD has become a volatile topic lately, with some skeptics questioning whether the rise in claims is driven by over diagnosis or by financial motives. A report last week from the Institute of Medicine, part of the National Academies, concluded that ''PTSD is a well characterized medical disorder'' for which ''all veterans deployed to a war zone are at risk.''

VA's growing PTSD caseload became an issue last August, when the agency announced a new review of 72,000 PTSD compensation cases, expressing concerns about errors and a lack of evidence. That probe was dropped after a sample of 2,100 cases turned up no instances of fraud.

Still, some experts are not convinced that the Iraq war has driven up the caseload. ''I'm skeptical that it accounts for a broad swath of this phenomenon,'' said psychiatrist Sally Satel, a resident scholar at the American Enterprise Institute. ''These men have had deaths in their families, they had all kinds of tragedies over 30 years that surely affected them emotionally but they coped with.''

Although a small percentage of veterans might be deeply affected, she said, she doubts ''they have become chronically disabled because of it''

Around the country, many veterans dwell on the similarities between the wars in Vietnam and Iraq: guerrilla tactics, deadly explosives, fallen comrades, divisive politics. The way they see it, ''Iraq is Vietnam without water,'' Weidman said.

''We have people who have symptoms that they haven't had in a long time,'' said Randy Barnes, 65, who works in the Kansas City offices of Vietnam Veterans of America. For some, ''the nightmares and flashbacks have been very hard to deal with,'' he said. Group therapy sessions are ''much more crowded,'' he said, ''with Vietnam veterans particularly, but now also with the Iraq and Afghanistan veterans.''

Barnes served as a combat medic in Vietnam from 1968 to 1969 and went into treatment only in the late 1990s. By the time the Iraq war started, he said, he felt steadier—but then his symptoms ramped up again.

''Depending on what I saw or heard that day or read, I would have night problems—nightmares, night sweats,'' he said. Sometimes, he said, he would roll out of bed and wake up crawling on the floor, ''seeking safety, I guess.''

A study published in February by VA experts showed that veterans under VA care experienced notable mental distress after the war started and as it intensified. While younger veterans, ages 18 to 44, showed the greatest reactions to the war, ''Vietnam era VA patients reported particularly high levels'' of distress consistently, the study reported.

Powerful images of war have revived combat trauma in the past. ''Traumatized people overreact to things that remind them of their original trauma,'' said Scurfield, the PTSD expert in Mississippi.

When the movie ''Saving Private Ryan'' was released, World War II sought mental health help in great numbers, said Wilson of Cleveland State. ''It rekindled it all,'' he said.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, earlier today I was given the opportunity to speak on the Senate floor about the constitutional amendment that is before us. Time ran out before I was able to conclude my remarks. I would like to do that at this time.

One of the heroes of the Vietnam war in which I served was a former POW named Jim Warner. I would like to close my comments today with his words. It is an extensive quote, but I want to quote all of his letter.

Here is what he said:

In March of 1973, when we were released from a prisoner of war camp in North Vietnam, we were flown to Clark Air Force base in the Philippines. As I stepped out of the aircraft, I looked up and saw the flag. I caught my breath, then, as tears filled my eyes. I saluted it. I never loved my country more than at that moment. Although I have received the Silver Star Medal and two Purple Hearts, they were nothing compared with the gratitude I felt then for having been allowed to serve the cause of freedom.

Because the mere sight of the flag meant so much to me when I saw it for the first time, after five and one-half years, It hurts me to see other Americans willfully desecrate it. But I have been in a Communist prison where I looked into the pit of hell. I cannot compromise with those who want to punish the flag burners. Let me explain myself.

Early in the imprisonment, the Communists told us that we did not have to stay there. If we would only admit that we were wrong, if we would only apologize, we could be released early. If we did not, we would be punished. A handful accepted. Most did not. In our minds, early release under those conditions would amount to a betrayal of our comrades, of our country, and of our flag.

Because we would not say the words they wanted us to say, they made our lives wretched. Most of us were tortured and some of my comrades died. I was tortured for most of the summer of 1969. I developed beriberi from malnutrition. I had long bouts of dysentery. I was infested with intestinal parasites. I spent 13 months in solitary confinement. Was our cause worth all of this? Yes, it was worth all this and more.

I remember one interrogation where I was shown a photograph of some Americans protesting the war by burning a flag. 'There,' the officer said. 'People in your country protest against your cause. That proves you are wrong.'

'No,' I said. 'That proves I am right. In my country, we are not afraid of freedom, even if it means that people disagree with us.' The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting, I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. . . . Don't be afraid of freedom.

Those, my friends, are the words of former POW Jim Warner.

There are many issues in the Senate that need our attention today—a path forward in Iraq, our large and growing dependence on foreign oil, the threat of global warming, the skyrocketing cost of health care, just to name a few. These are pressing issues which demand action not just from the Congress but from the President, too—not in the next administration, not next year, now. Instead, we are spending this week debating a constitutional amendment—however well intentioned—that is truly, in my judgment, not needed in America today.

Later this week, Senator BENNETT and others will offer legislation that would criminalize flag desecration under specific circumstances without having to amend our Constitution. That measure would prohibit burning or destroying the flag with the intent to incite or produce imminent violence or a breach of the peace or damaging a flag that belongs to the United States or another person on U.S. lands.

Senator DURBIN will seek to add to that legislation an amendment that would prohibit groups from demonstrating or protesting near a funeral of someone who died serving in our Armed Forces. This is in response to an extremist group that has been traveling the country—it came to Delaware—and disrupting funeral services for our fallen soldiers, making outrageous claims about our country. Their behavior is reprehensible. It desecrates our flag and everything it stands for. By God, it should be illegal—that kind of behavior—and the Durbin amendment will make it illegal.

We could take up both of these measures today and pass them, I believe, without objection. We could penalize flag desecration to the fullest extent possible without jeopardizing the values inherent in our Constitution. In my view, this approach is a balanced one in that it allows us to maintain our reverence both for our flag that we love and for the Constitution we revere.

As I said earlier in my remarks this morning, I still get a lump in my throat when I sing our national anthem or say the Pledge of Allegiance to our flag and take a moment to truly consider what our flag stands for and the sacrifices made in its honor. It is a symbol of America. I love it now more than I ever have. But behind that symbol is our Constitution. It is the foundation on which our country has been built and endures today. It is what guarantees us the freedoms and the liberties that make this country of ours great. We should not amend that living document lightly, and we should not change it when we can find another way.

My friends, let's find that other way this week. Let's maintain our reverence for the flag and for our Constitution.

Mr. President, I yield back my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator please hold?

Mr. CARPER. Yes.

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate having received a message from the House that the House agrees to S. Con. Res. 103, and having received the conference report on H.R. 889 from the House, the conference report is agreed to, and the motion to reconsider is laid on the table.

(The conference report is printed in the House proceedings of the RECORD on April 6, 2006.)

Mr. CARPER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

FLAG DESECRATION AMENDMENT—Continued

Mr. INOUYE. Mr. President, I ask that I be permitted to use 6 minutes of my party's time.

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

Mr. INOUYE. Mr. President, I rise to speak against the proposed constitutional amendment.

Since World War II, I have been involved directly or indirectly in 13 wars and conflicts: Korea, Vietnam, the Dominican Republic, Desert One, Grenada, Lebanon, Panama, the Persian Gulf war, Somalia, Haiti, Yugoslavia, Afghanistan, and now Iraq.

In all these wars and conflicts, there are several things in common. First, American lives were lost and many young Americans were wounded and will bear scars for the rest of their lives, and we must not dishonor their memories by abandoning the freedoms for which they sacrificed.

Second, in every war, great speeches are made and delivered energizing our citizens to defend our unique American freedoms contained within the Bill of Rights. I can still hear some of those stirring words.

During the Second World War, very close friends of mine were lost. Much blood was shed to preserve every American's constitutional freedoms.

To be clear, I have no patience with those who defile our flag. It is unpatriotic and deeply offensive to those who serve or who have served in uniform. It angers me to see symbols of our country set on fire. This objectionable expression is obscene, it is painful, it is unpatriotic, but I believe Americans gave their lives in many wars to make certain that all Americans have a right to express themselves, even those who harbor hateful thoughts.

Our country is unique because our dissidents have a voice. Protecting this freedom of expression, even when it hurts the most, is a true test of our dedication to democracy.

As a commissioned military officer and as a U.S. Senator, I took an oath to uphold and defend the Constitution. As a Senator, I have become accustomed to being insulted and condemned by people who disagree with me. I have been castigated for having cast votes that some call unpatriotic or un-American. I believe that my actions were patriotic and American, but those who criticize me have a right to disagree and express their disagreement.

It is not always easy to serve the country with a Bill of Rights that defends the rights of those who would defile our national symbol. While I take offense at disrespect to the flag, I nonetheless believe it is my continued duty as a veteran, as an American citizen, and as a United States Senator to defend the constitutional right of protesters to use the flag in nonviolent speech.

For over 200 years, our Bill of Rights has endured. It proclaims the Government of the United States is limited in its powers, and this sacred document continues to instruct and inspire people throughout the world. And for the last 200 years, despite repeated efforts to tamper with this document, we have always found the strength necessary to live within these limits.

So today we must look inside ourselves once again and find the strength to affirm our commitment to the precious liberties enshrined in the Bill of Rights.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I have great respect for the Senator from Hawaii, for his service as a veteran, as well as his service in this body, but I couldn't disagree more.

Our Founders used the word ''speech.'' They didn't say ''expression'' or ''expressive behavior.'' They used the word ''speech'' very critically. It was discussed in the documents: What word will we use in the Bill of Rights in this first amendment?

They chose the word ''speech'' because they meant speech. They didn't mean behavior. They meant speech.

I think it is real important for the American people to understand what this debate is all about. It is not about burning the flag. It is about restoring the balance of the three branches of Government, and that when one of the three becomes imbalanced, that we have the right to restore that balance. Our Founders were wise in that regard

to give us this vehicle of amending the Constitution.

We can talk about the flag all we want, but the real debate here is, when an overwhelming majority of Americans agree with this and all 50 State legislatures have passed requests that we do this, why we don't do this? The only way we have to balance the judiciary with the legislative branch is to do it in a manner that represents the will of the people as prescribed by our Founders.

Seven new Republican Senators were elected in 2004, and if there was an issue that dominated that debate more than anything, it was, what kind of judges are we going to put on the courts? Are we going to confirm judges who take what they want, twist the Constitution into what they believe, and change the basics of how we operate in this country or are we going to put judges on the courts who understand that they have a very limited role to interpret the Constitution, interpret the treaties, and interpret the statutes of this country?

The reason we were sent here, the seven of us, the vast majority of the impact of that election, was to have an impact on what kinds of judges we were going to put on the courts. This is that same debate coming from a different angle. Do we want a 5-to-4 decision where five Members of the Court determine and twist what the real words of our Constitution say—speech, not behavior; it says ''speech,'' not behavior, not expressive conduct; it says ''speech''—and do we want to allow that to continue to be twisted or do we want to reserve the right for Congress to go through the method that our Founders allowed to bring about a constitutional amendment that says we have the right to control whether somebody can do that.

To vote against this amendment will limit the ability of this body to hold on to its balanced share of one-third of the power of this Government. This is about restoring the power of this body and the House to, in fact, represent what the people in this country want in an overwhelming majority in all 50 States.

It is not about burning the flag. It is about reestablishing the proper role of the balance of the three branches that run this country—the executive, the judiciary, and the legislative.

We are going to miss a great opportunity if we don't do this. It will do two things: One, it will reestablish the power, but it will send a signal that when judges take an oath, they have to follow the oath and the oath is not to determine what they think is best based on what they believe. Their oath is to follow the Constitution, not change it but follow it; and No. 2, interpret the statutes and interpret the treaties.

We have to reestablish a balance. This resolution is about reestablishing that balance and sending the message that we are serious that judges take their oath seriously, that they don't get to play games with what they would like but they, in fact, have to uphold their oath. They also have to follow what the Constitution says, and the Constitution says the same thing as their oath. They don't get the privilege of deciding what they want. They have the privilege of only deciding what the Constitution says, what the statutes say, and what the treaties say.

I remind the Members of this body that our Founders put the word ''speech'' in the first amendment on purpose. They didn't put the words ''expressive behavior.'' They used the word ''speech,'' and we ought to establish the right of the Congress to establish within itself the right to do what the American people want and to follow the Constitution. That is what this is about.

There have been a lot of statements made about what would you do with a flag; what about a bathing suit? The way you judge what is a flag is what you drape over the coffin of one of our fallen soldiers. That is how you judge what it is. That is what it means. You can't define what it is other than the value of service and sacrifice that is part of the heritage of this country. To say we cannot preserve the value of that and bring back our constitutional responsibility to do that—No. 1, which does follow the Constitution and, No. 2, is the desired will of this country—means that we won't stand up to the obligations of our office, and we ought to be very serious about it as we do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise today in full support of S.J. Res. 12, the flag desecration resolution introduced by Senator HATCH. The Senate has given this bill adequate consideration and it is now time to pass it and send it to the States for ratification.

I have heard a lot of critics of the flag amendment incorrectly characterize it as stifling free speech. Nothing could be further from the truth. First, the amendment itself does not prohibit anything. The constitutional amendment we are considering today restores to Congress the power to protect the flag—a power the Congress freely exercised until 1989, when the Supreme Court handed down 5 to 4 decision in Texas v. Johnson. This decision struck down a flag protection statute in Texas, and effectively invalidated similar statutes in 48 States and the District of Columbia, as well as the Federal statute. In 1990, in another 5 to 4 decision, the Court struck down a revised Federal statute.

The Court's decision in Texas v. Johnson was notable for a powerful dissent authored by Justice Stevens. I would note that Justice Stevens provides consistently one of the most liberal votes on the Court. Justice Stevens found that neither the States nor Congress had acted improperly in passing the statutes in question. He was on the mark in his dissent when he said:

> The case has nothing to do with disagreeable ideas; it involves disagreeable conduct that, in my opinion, diminishes the value of an important national asset.

Justice Stevens is absolutely correct in recognizing that a prohibition on certain forms of conduct is a power long held by Congress and the States and in no way infringes on the right of any individual to express an idea. He went on to say:

> Had he chosen to spray-paint—or perhaps convey with a motion picture projector—his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the Government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset.

Then-Chief Justice Rehnquist also questioned the communicative value in desecrating the flag, saying that such conduct ''is most likely to be indulged in not to express any particular idea, but to antagonize others.''

Prior to these rulings, Congress, with the support of a majority of the American people, had the power to protect our Nation's symbol. Respect for the flag is not something that falls along ideological lines or party affiliation; it is shared by Americans from all walks of life. In these polarized times, the flag remains a unifying symbol.

Last month, as chairman of the Judiciary Subcommittee on the Constitution, I chaired a markup of this bill. We had an energized debate, and passed the amendment with a bipartisan 6-to-3 majority. Two-thirds of the membership of my subcommittee not only supported the amendment but were, and are, proud cosponsors.

I would like to thank my good friend and ranking member, Senator RUSS FEINGOLD for his cooperation in scheduling a markup. He doesn't support the amendment, but I know he believes amending the Constitution is a very serious matter, and I appreciate his cooperation in having a fair and honest debate. I would also like to thank Senator FEINSTEIN. She is one of the strongest supporters of this amendment and is also a member of the Constitution Subcommittee. I commend her for ignoring powerful special interest groups and diligently fighting for what's right.

We should be very careful in considering amendments to the U.S. Constitution. It is not something that should ever be taken lightly, but the Court has left us with few options. It is unfortunate that we have to consider this amendment, but I do believe that in light of the Supreme Court's decisions it is the appropriate action.

The amendment has broad bipartisan support here in the Senate, and is supported by Americans from both ends of the political spectrum. Poll after poll indicates that the people of this country want their flag protected. I have been contacted by numerous veterans

groups from my home State of Kansas, as well as across the country voicing strong support for this amendment. We ask a lot from our men and women in uniform. They sacrifice their safety and risk their lives so that each of us can remain free in this great Republic. Their defense of the principles and liberties embodied in the red, white, and blue preserve the freedoms enumerated in the Constitution.

Passing this amendment and sending it to the States allows for the American people to have their voices heard on this important issue. The House passed the flag amendment by a two-thirds majority vote last year, and it is now our turn to do the right thing and give the States and the people of this great Nation the opportunity to decide whether to grant protection to our national symbol. If ratified by three-fourths of the States, then we can debate an appropriate statute concerning treatment of the flag.

There is a lot of misinformation regarding this amendment that should be cleared up. If ratified, the text of the Constitution would not prohibit flag burning. The amendment states:

> The Congress shall have power to prohibit the physical desecration of the flag of the United States.

Even if the amendment passes, the Congress may decide not to prohibit flag desecration. But we will have corrected a wrong decision by the Supreme Court.

Article V to the Constitution does not give nine unelected Justices the right to amend our founding document. This power rests solely in the democratic process. Restoring this power to the people and their elected representatives in Congress preserves this process. Protecting the integrity of our national symbol should not be left to a handful of unelected judges. Why would any Member of this body vote to limit our power and expand the power of the Court?

The Founding Fathers wisely devised a process for the people through their elected representatives—not the courts—to amend the Constitution. It is our duty as elected Members of Congress to exercise this constitutionally granted power when necessary and appropriate. Justice is not served when we remain silent and allow unaccountable judges to exercise this power for us. If, as Members on both sides the aisle repeatedly claim, we truly oppose judicial activism, we should send this amendment to the States for ratification.

I am proud to have cosponsored this amendment in every Congress since I became a Member, and to have consistently cast my vote in support each time the bill has made it to the floor. I urge my colleagues to support this bill, so that the American people can choose whether or not to bestow protection to their flag. There is no symbol that has the power to unify us like the flag, which is why a majority of Americans continue to support this amendment. It is time to restore the traditional meaning of the first amendment and send the flag desecration resolution to the States for ratification. I urge my colleagues to vote for this important amendment.

Mr. President, I thank my colleague from Oklahoma for his great work on this amendment. This legislation passed the Constitution Subcommittee 6 to 3. It passed the full Judiciary Committee and is now ready for this body to vote, and we need to have a positive vote on it.

I flew in to Washington today. There were cloudy skies, but one could still see the monuments when flying in. The beauty of the monuments never ceases to strike me. Whether it is the White House, the Washington Monument, the Lincoln Memorial, National Cathedral, there are just certain landscape features one looks at.

When you are flying in on the so-called river run that the pilots so often do, you get to see these monuments, and it is just so striking.

I was preparing for this debate and thinking about the Lincoln Memorial. What if somebody today, yesterday, or some other time had taken spray paint and sprayed on the Lincoln Memorial: ''We want freedom'' or ''Death to tyrants'' or ''Down with the flag''? Let's say they wrote that in big spray paint on the Lincoln Memorial and defaced the memorial and then was caught and was brought to trial and claimed: Wait a minute, I have a first amendment right to say what I want to say, and I believe it is important that I say it anywhere, and I want to say it on the Lincoln Memorial. I want to make my message known, and I am going to spray-paint it all over here; this is free speech, and I ought to be able to do that and this is the place to do it, and Lincoln would approve of that; he believed in free speech, so he wouldn't mind that the memorial was sprayed upon, that it was defaced.

We would all recognize that as being something wrong, violating the law, and something there should be a law against.

We don't have a problem with a person standing on the Lincoln Memorial and shouting at the top of his lungs for as long as he wants whatever he wants to say—if it is about the war in Iraq, if it is about the President, if it is about somebody in the Senate, if it is about myself, if it is about the Chair, if it is about anything he wants. We don't have any problem with that. But if he defaces the memorial, we do.

It is interesting, that was the dissent Justice Stevens used in the Texas v. Johnson case. He made that same point. We have no problem with a person speaking on the Lincoln Memorial. We have a problem with him defacing the Lincoln Memorial. We have no problem with people speaking against the flag. We have a problem with them defacing the flag.

Justice Stevens in his dissent—which I think was rightly said—said:

> Had he chosen to spray paint or perhaps convey with a motion picture projector his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of Government to prohibit this means of expression. The prohibition will be supported by the legitimate interests in preserving the quality of an important national asset.

That is what we are talking about today: preserving the quality of an important national asset that people follow into battle, that we have had and honored for years and years, and until recently the court has held up as saying: Yes, this is something that should be protected and is protected by the laws of the land, and these laws are appropriate and are not limitations on free speech.

I think if you follow this court ruling, where does it end? If you say actions are speech, wouldn't you have a legitimate objective in defacing the Lincoln Memorial, particularly if it was some form of political free speech that you wanted to express and put forward?

We have held many hearings on this topic. This is not a complicated issue. It is about whether we are going to have some authority and ability to be able to limit and to be able to honor and to uphold something so precious as our American flag. I think we should do that. I think because of the people who follow this flag and because we are a nation of symbols, and symbols are what unite us, and because of the words and thought that are conveyed by this flag, we should be able to uphold this mighty national asset. I think it is important that we be allowed to do that.

I have had a chance to speak on this at length in committee. I have carried the amendment in our subcommittee. I urge my colleagues to support this amendment and let the States vote on it. Let the States decide what they would choose to do.

Mr. THOMAS. Mr. President, I would like to make a few comments on the bill before us. I have heard a great deal of discussion and, as always, there should be a lot of discussion, different ideas about it, the idea of protecting free speech, and none of us disagree with that. I think the difference here is the fact that the flag represents our right and our freedom for free speech as well as all of our other freedoms. So I am proud and honored to be one of the 59 original cosponsors of the flag protection amendment.

Having served in the Marine Corps, I stood before the flag and understood that it represented the things that we stand for. It represented the freedoms we have. It represented the things that we sacrifice for. I believe it should receive special protection because that is what it symbolizes to the citizens of the United States.

I understand there are concerns about limiting free speech. This amendment does not limit speech; it simply gives Congress the authority to prohibit physical desecration of the

flag. To me, that is pretty easy to determine. It is something we should protect. It is something that we have given a great deal to protect. It is symbolic of the things that mean so much to us.

Since the Supreme Court decision that said desecrating the flag is protected speech, there has been an overwhelming amount of public support to protect the flag. All 50 States have passed resolutions calling for Congress to pass a flag amendment.

I understand that amending the Constitution should not be taken lightly, but burning or defacing or trampling the flag sends the wrong message to people who have given so much, including their lives, for the defense of this country, so certainly that should not be taken lightly.

Throughout history, in times of war, peace, and uncertainty, our Nation always turns to the flag as a sign of resolve, as a sign of commitment, as a sign of strength. After the attacks of September 11, our Nation unfurled the flag at the Pentagon and raised it from the rubble at Ground Zero. It is a symbol of national unity and identity. This symbol needs to be held in the highest regard. Generations of American soldiers have died under the flag and the ideals it stands for. The flag is a strong symbol for those who fought in wartime.

The American flag is a national asset. Just as it is unlawful to desecrate the Washington Monument, the Lincoln Memorial, and the graves at Arlington, it should be unlawful to desecrate the flag. Aren't there some things like symbols of freedom that should rise above politics? It seems to me that they should.

So I urge my colleagues to support this amendment so we can send it to the States for ratification and ultimately let the people of America decide.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I rise in support of the amendment to allow the U.S. Congress to protect the American flag.

I was elected 2 years ago, in the most recent election. I ran on a campaign of three basic promises and commitments to the people of Georgia: The first was to support the President and our men and women in harm's way in the war on terror. The second was to work diligently for strong fiscal accountability on behalf of the Congress. And the third was to vote in favor of confirming the judges appointed by the President of the United States to the Federal bench. With those promises, I made the statement that I really felt as though the division of powers of our Constitution was sound, and that it was absolutely important for judges to interpret the law, not to make the law.

This amendment has been said by some to be a violation of the first amendment. This amendment has nothing to do with speech or expression. It has everything to do with protecting our flag and allowing the Congress to write those laws that would prohibit physical desecration of our flag.

Unlike some, I do not believe the flag is an inanimate object. I believe it is a living symbol for which our men and women in harm's way have fought for over two centuries.

Just a month ago, I went to Normandy. I went to Bellewood. I went to the Netherlands and Margraten. I went to Belgium and Carthage in Northern Africa. We did seven ceremonies in 6 days at seven American cemeteries, cemeteries where tens of thousands of Americans are buried, having paid the ultimate sacrifice in World War I and World War II. They died to protect the first amendment. But if those in the graves could come back and speak, I don't think a one would say they died to have the flag they fought for desecrated.

The courts have also been inconsistent in this case in my judgment about the first amendment and expression. The court, in 1989, in Texas v. Johnson, and in 1990 in the case of the United States v. Eichman, ruled that burning the flag was protected by the first amendment. I find it ironic that in 2003, the U.S. Supreme Court ruled in the Virginia case, Virginia v. Black, that the burning of a cross in someone's front yard was not expression and, therefore, the Virginia law banning it was upheld.

I did a little research on that case which led me to find out that the District of Columbia has that law, the State of Georgia has that law, and many States in the United States have that law, which says the terrible act of desecrating a cross and burning it is protected—is fine for the States to do that. In fact, I read a little bit about Clarence Thomas's opinion written in that 2003 case, and I want to share his remarks because it applies directly to my point on protecting the flag and not allowing its desecration. Justice Thomas said:

> This statute prohibits only conduct, not expression. ust as one cannot burn down someone's house to make a political point and then seek refuge in the First Amendment, those who hate cannot terrorize and intimidate to make their point.

I don't think it can be said more succinctly or more clearly.

The amendment that is to be voted on by this Senate, hopefully sometime today or tomorrow, is an amendment that does nothing to prohibit the speech of anyone but does everything to protect the flag from being desecrated. I think those brave men and women who died for this country would agree with that, I agree with that, and I think the people of Georgia agree with that. I urge my colleagues to vote in favor of passage of the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. TALENT. Mr. President, how much time do we have left?

The PRESIDING OFFICER. The Senator has 3½ minutes.

Mr. TALENT. Mr. President, I rise to speak on the proposition before us and on the importance of protecting the American flag. The American flag is a unique symbol in the Nation's consciousness. America, unlike many countries, actually had a birthday. There was a day when the Colonies became States and the States became a nation and they were organized explicitly around certain beliefs about human dignity and freedom: the belief that people have certain inalienable rights that inhere in them as human beings and that because of those rights the Government is the servant and not the master of the people. It is also a nation that cherishes diversity but balances against that, unity. It is no accident that the national motto is ''out of the many, the one.''

We are not a country with a monarchy. We rebelled against a monarchy. We are not a country with an established religion. We rebelled against that as well. We are a country with only a few unifying symbols, chief among which is the flag. That is why it is so uniquely important to America's conception of itself to protect the flag. In protecting the flag, we are affirming the basic beliefs of the country.

I believe that there is in the Constitution a narrow power on the part of the States and the Congress to protect the flag from public desecration. In passing this amendment, if the Senate chooses to do it, we will simply affirm those underlying ideals. We are not saying you can't criticize those ideals—you can. You can attack them. You can attack the flag if you want. But there ought to be a power to protect the flag from public desecration, and I think the amendment comes down simply to that proposition:

How much do you value the flag as a symbol of what this Nation has stood for and what the people of this country have sacrificed for and in some cases have died for?

There are arguments that have been raised on the floor against the amendment. One of them is that we should not amend the Constitution. The Supreme Court has amended the Constitution. Until recently, it was the common understanding that this power existed. There were 48 States that had laws against the desecration of the flag. The Supreme Court said they were unconstitutional. In effect, the Court updated or amended the traditional understanding of the Constitution to say that. Whatever you think of the Court's power to amend the Constitution or update it according to the opinions of the Justices, surely the people

ought to have the power to amend the Constitution.

If the Court can do it, the people ought to be able do it.

That is another basic American ideal—the right of the people to govern themselves, to decide for themselves what their own organic law says. If the people are to have their will carried out in this respect, the only way they have left to do it is by amending the Constitution. If you say we should not amend the Constitution under these circumstances, you are saying, in effect, that the courts can change the Constitution when they think it is important to do it, and the people have no response. They cannot pass a statute because the Court would say it is unconstitutional, and they cannot pass a constitutional amendment because so many in this body say they should never amend their own Constitution.

Another argument against the amendment is that it regulates expression. It does not. Burning the flag is an act. It is an act with expressive overtones, surely, so we should be careful before doing it, but it is an act, and it is fully within the tradition of the first amendment to allow the regulation of actions that have speech overtones. It was only a few years ago that this body passed comprehensive campaign finance reform that most certainly regulated not just acts but expressions. According to that legislation, it is unlawful for grassroots groups to sponsor political advertisement in the last 60 days of an election that mentions the name of a candidate. I cannot think of anything more closely related to the core of what the first amendment was passed to protect, yet the Court said that was constitutional. If it is permissible to regulate speech in that context, why is it not permissible to regulate action that has speech overtones?

Mr. President, I ask unanimous consent for another 2 minutes to finish my remarks.

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

Mr. TALENT. Why is it not permissible to regulate something that is clearly an act that strikes at the heart of the American consciousness and that leaves unregulated a vast area of expression?

I would daresay, if the average American decided to participate in the political process and try to get his or her views out, they might very well join a grassroots group and get involved in a campaign. Yet it is evidently consistent with the first amendment, according to the Court, to regulate that, yet not consistent to prohibit a particular action that has one narrow area of expressive overtones.

We should at least understand what this debate is about. It is about how much you value the flag. I do not begrudge anybody their views about expression or the Constitution or the role of this body in regulating the one or amending the other. But I believe this debate is about how great a significance you attach to the flag of the United States. I believe it is important. People have fought under it. They have died for it. There are literally billions of people around the world who see the flag as a symbol for all that is good about their hopes for the future.

I believe it is important that we have this debate. I hope the Senate will think clearly and deeply and thoughtfully and not on a partisan or political basis and decide it is consistent with America's traditions and that it will sustain the balance between diversity and unity for us to pass this amendment and protect our flag.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, I have listened to this debate today and yesterday. I have heard the heartfelt sentiments of my colleagues on both sides of the aisle about this flag. I think everyone following this debate has the same strong feelings about this flag and what it symbolizes.

Today, Senator DAN INOUYE, my colleague from the State of Hawaii, spoke. There probably is no one better qualified to come to the Senate floor and speak to this issue. Senator DAN INOUYE, a veteran of World War II, lost his arm in combat and was decorated with the Congressional Medal of Honor for the bravery and valor he showed in that conflict. He went on to serve his Nation again in the U.S. Congress and came to the floor today to speak from the heart about what that flag means to him. One would think that a man like Senator INOUYE, more than any other who serves in the Senate, would understand the importance of that flag to our men and women in uniform and to all of us who, from the moment we were old enough, learned the Pledge of Allegiance and stood up in front of our classrooms and said that flag means something special.

Today before us is an opportunity to do something for that flag, and I believe we should seize that opportunity. But I think what has been proposed by the other side, the idea of amending our Constitution, is not necessary.

Stop and reflect for a moment. Since 1791, when James Madison, Thomas Jefferson, and the Founding Fathers crafted the words of our Bill of Rights, they have stood as a sacred document in this country. They have guided us through good times and bad. They have given us our moral compass as a nation. They have inspired others to follow that wording so carefully crafted in building their own constitutions and their own nations. It is, indeed, a sacred document.

Some have come to the Senate floor in the last several days and suggested it is time to change the Bill of Rights. It is time for the first time in the history of the United States of America to change the words crafted by our Founding Fathers.

I have said it before and I will repeat it now, when it comes to changing this Constitution, I approach that task with great humility. I like to think I have some skills, perhaps at writing or speaking, but if you are asking me to write words to put in that Constitution, words that would change what Madison, Jefferson, and the Founding Fathers intended to be our basic rights as Americans, I come to that task with great humility.

But some of my colleagues do not. In fact, over the last 15 years we have had 1,000 amendments proposed to the Constitution. There was a time in the Senate Judiciary Committee not long ago when the chairman scheduled two constitutional amendments to be considered on the same day. I took exception to that. I objected to one of them and I argued then, and I still believe, that for all that is holy in America, we should not amend the Constitution more than once a day.

Today we are facing the second constitutional amendment this month proposed by the Republican side of the aisle. I think it is unfortunate. I wish my colleagues approached this with the same sense of humility which I think most Americans would if facing this challenge. The obvious question is this: If we love this flag, if we respect this flag, if it is a symbol for our Nation, how should we show that respect? We do it in so many ways, from the Pledge of Allegiance to our national anthem, saluting it as it passes in parade or putting your hand over your heart. We do it in ways large and small.

But what about those who desecrate that flag? What about those who engage in hateful conduct toward that flag to protest some action by the United States or for whatever reason? What should we do with those people? According to those supporting a constitutional amendment, we should show our hatred for their conduct by amending the Bill of Rights for the first time in the history of the United States of America. I disagree. I disagree. I believe there is a way to protect that flag without defiling our Constitution. There is a way to show our love of that symbol of our great Nation, not at the expense of that sacred document which has guided us from the beginning. What I am proposing at the end of my statement today is an amendment. It is an amendment that is being offered on a bipartisan basis. It is an amendment that will make it unnecessary to amend the Constitution of the United States. It is an amendment which establishes that it will be a crime to desecrate that flag. We spell out the circumstances that would make it a crime.

The Supreme Court has not said that you have to amend the Constitution to protect that flag—just the opposite.

In the United States v. Eichman case in 1990, the Supreme Court expressly recognized that while citizens have a free speech right to express their political dissent by burning the flag, the Government may punish flag-burning under certain circumstances.

In a unanimous decision in 1992—in R.A.V. v. the City of St. Paul—the Court explained that although a law prohibiting individuals from dishonoring the flag is not content neutral, the Government may punish flag-burning in a content neutral manner.

Stripping away the constitutional language, what the Court has said is this Congress has within its power to write a criminal statute that would punish someone who desecrates that flag. This amendment that I offer will do that expressly. It would prohibit a person from destroying a flag with the intent of inciting imminent violence. It would prohibit people from threatening someone by burning a flag. It would prohibit damaging a flag owned by the United States. And it would prohibit damaging a stolen flag on Federal land.

Each of those elements in this amendment has been carefully thought out and tested against constitutional standards that have been handed down by the Court.

You may recall, if you follow the Supreme Court decisions, that not long ago there was a historic decision in Virginia v. Black. The year was 2003. The Court in that decision held that the Government may prohibit people from burning crosses with the intent to intimidate.

You know what the symbol of burning a cross is. It is a symbol of hatred and bigotry and prejudice. It is especially a hateful symbol to African Americans who recall our bitter past of slavery, before the dawn of the civil rights movement. And the Supreme Court made it clear. It said, the Government may prohibit intimidation by the use of burning crosses.

We use the same logic and the same argument of the Court and apply it to the flag.

For those who have come to the floor—and many have—and said how much they respect the flag, we offer them a reasonable alternative: an alternative that protects the flag without infringing our Bill of Rights.

I think that is the way we should move. We have learned long ago that when it comes to amending the Constitution, it shouldn't be the first thing we do. It should be the last resort. That sacred document deserves to be honored and only changed when absolutely necessary for America.

There is a criminal statute that I am going to propose as an alternative way to protect that flag, to show respect for that flag, and to still show respect for our Bill of Rights.

Let me tell you about another issue which we address in this amendment. You have read about it. If you read it, as I have recently, it makes you sick. What I am referring to is a group nominally calling themselves Christians that is now picketing and protesting at the funerals of our fallen soldiers. There is a man by the name of Phelps. He calls himself a minister. But his gospel seems to begin and end with hatred—hatred for gays and lesbians, and obviously hatred and insensitivity for the poor families of our fallen veterans.

About 15 years ago, this man Phelps and his so-called church followers started showing up at the funerals of men and women who died of HIV/AIDS. They have reportedly picketed over 22,000 funerals and other events across America. When their vile acts of incivility stopped generating the publicity they sought, Mr. Phelps found a new target.

I am reluctant to show these photos because I don't want to encourage this man. But I have to tell you that it puts in context what we are talking about today. Imagine if you had someone who calls themselves God-fearing and goes to the funeral of fallen soldiers with signs like these, ''Thank God for 9/11'' and ''You are going to hell.''

Here is another one of those followers holding a sign at a veteran's funeral, ''God hates you.'' Here he is. ''AIDS is God's curse.''

I received a letter recently from the wife of one of our fallen heroes in Iraq. Mr. Phelps and his group showed up at her husband's funeral.

Can you imagine the heartbreak that family must have felt, losing a father, a husband, a brother, coming for that sad moment of parting and then to have these protesters standing around saying that God hates you.

In the past year, these hate-mongers have protested at more than 100 military funerals in America. They claim that the deaths of America's Armed Forces are God's punishment for America's tolerance for those with different sexual orientation. This is such an affront to the families, to everyone in uniform, and to our Nation.

I think there will be a special place in the next life for these people, but there is no place for their brand of hatred at veterans' funerals in this life.

Last month, we passed a bill which the President signed into law that made it clear that Mr. Phelps and his faithful followers could not engage in this sort of demonstration at our 121 national cemeteries.

The amendment which I will be offering includes a section which not only protects our flag by making it a crime to defile or desecrate under the circumstances I mentioned, it goes further. It expands the bill that we passed earlier. It applies the same standards as would apply to national cemeteries to the funerals of all veterans, whether they are buried in a national cemetery or in their own church cemetery or somewhere else.

My amendment will prohibit protests at cemeteries, funeral homes, houses of worship and other locations where deceased veterans are honored and buried.

We can honor our veterans and protect our loved ones from these hateful, barbaric intrusions on the grief of their families. We can do this without weakening or assaulting our Constitution. We can do this without diminishing the basic freedoms we revere in our Nation—freedoms that those veterans fought for.

I ask my colleagues to stop, pause, and think for a moment. If we can achieve this, if we can truly protect this flag and if we can protect the veterans and their families from these hateful demonstrations without amendment to our Constitution, let's do that. Let's join together on a bipartisan basis.

We often disagree in this Chamber. Debates go on and on. Can't we come together in agreement on this that we love this flag and can protect it without amending our Constitution, that we respect our veterans, soldiers and their families, and that now we include this provision as well to protect them?

The amendment I offer is very narrow. It doesn't ban all protest activities. It permits protests outside military funerals as long as protesters don't engage in loud activities. But it draws strict guidelines so that you can't disrupt that funeral home by putting demonstrators and pickets within certain distances consistent with our constitutional rights.

I hope that those who will consider this amendment will go back to the point I made earlier. We can stand for this flag and we can stand for our veterans. But first we must stand for our Constitution. We should address this Constitution with humility and with the understanding that the words that have inspired our Nation and people around the world for more than 200 years are words worth protecting. And that before we come to this floor for whatever motive to change those words, if we can find an alternative to create Federal crimes for the activities that we find so objectionable, so abhorrent, it is a much more reasonable path to follow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank my friend from Illinois for the amendment he has offered. It is my understanding that it is the same wording of the amendment to the bill which I offered and which is pending before the Judiciary Committee, cosponsored with Senator CLINTON and others but that he has added a section to it which I find very worthwhile. I thank him for his thoughtfulness and for the section that he has added with respect to funerals and cemeteries, and for his diligence in bringing forward that piece of legislation which I had offered and which has been bogged down in the Judiciary Committee for whatever reason. I am grateful to him for his consideration.

I ask unanimous consent that I be added as a cosponsor to his amendment.

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

Mr. BENNETT. Mr. President, while I have the floor, I would like to make

this comment about the debate that is before us.

I have great personal conflicts on this issue because my senior colleague from Utah, Senator HATCH, is the cosponsor and the principal sponsor of the constitutional amendment which would empower the Congress to have the right to take legislative action to protect the flag.

The PRESIDING OFFICER. Time is currently under the control of the minority.

Mr. KERRY. Mr. President, I ask unanimous consent that whatever time he uses be charged to the majority and I reserve our time appropriately.

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

Mr. BENNETT. I thank my friend from Massachusetts. I wasn't aware of the time situation.

I have enormous respect for Senator HATCH—not only for his legal ability but perhaps more so for his sincerity and his commitment to this cause.

This is not something he is doing for any cheap political purpose. This is not something he is doing to grandstand. This is something that he is doing because he sincerely believes it. He is sincerely committed to the idea that protecting the flag is an essential thing for us to do, not only to honor our veterans but to teach our children the importance of the flag in the future.

I respect that, and I am with him. But I cannot quite bring myself to amend the Constitution in the manner that he suggests for those purposes. I want to make it very clear that I do not under any circumstances denigrate those purposes. I believe that the legislation I offered—which, as I indicated, is still before the Judiciary Committee—would take care of the challenges of protecting our flag. He disagrees. He insists that my legislation would be unconstitutional based on past precedent.

Checking with legal authorities, I am assured that it is constitutional. That is not the point. The Senate will work its will one way or the other with respect to this.

I simply want to make it clear that although I have come to the conclusion that a constitutional amendment under the present circumstances is not necessary, this does not mean that I surrender one whit of my respect for and loyalty to my senior colleague. The Senate will make its decision. I will be happy with whatever that decision might be.

I once again extend my support and respect for my senior colleague even as I announce my intention to vote in a different path.

The PRESIDING OFFICER. Five minutes remain on the minority side.

Mr. KERRY. Only 5 minutes of the total?

The PRESIDING OFFICER. That is correct.

Mr. KERRY. Is that on the half hour?

The PRESIDING OFFICER. Yes.

Mr. KERRY. Mr. President, would it be possible, because we got pushed back a little bit, that I could have 10 or 15 minutes on my time and then slide it back the other way?

Mr. President, I ask unanimous consent that I be permitted to proceed for 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. Mr. President, I thank the Chair and I thank my colleague.

Mr. President, let me begin by saying that all through the years we have been here before. We have had this vote before a number of times. And each time, thank God, the Senate in its wisdom has protected the Constitution of the United States.

I must say that I have concern at a time when real leaders ought to be uniting the country around our biggest challenges, in a summer when American soldiers are in harm's way in Iraq, Afghanistan, and elsewhere in the world, while families at home are struggling with record gas prices, with health care costs soaring, jobs being shipped overseas and veterans who are defending our country and flag are still going without the health care they were promised, it is astonishing that we are here having this debate.

This debate, like wars themselves, can pit father against father, family against family, veteran against veteran. It is a complicated debate emotionally, and I understand that. I am not doubting at all the emotional feeling which is real for every American about our flag. We all understand that.

I remember taking an oath in 1965 with a group of friends of mine who decided—all of us—that we ought to serve our country. We went into different branches of the service with a common sense of what our obligation was. But when I raised my hand, I did not raise my hand to defend the flag; I raised my hand and took an oath to defend the Constitution and our country.

A lot of those friends did not come home. They were buried in coffins that bore that flag until the moment of their burial, and then that flag was given to a family member. That flag was a symbol of their sacrifice, a symbol of their gift, a symbol of our country itself and all that it stands for, but it was not our country itself. I think each of us still feels bound by those oaths.

I took almost the same oath when I came here to the Senate. The obligation is the same: to defend what the Framers of the Constitution intended and never to give in to the passions of the moment, to the momentary urge to try to respond to something emotional that, no matter how much the emotion is genuine, and it is, takes away from the larger principle and larger set of values that guide our country.

I think it would be a grave mistake if we broke those oaths in the Senate today. We need to listen to the voices of patriotism which urge us to do our real duty. Our former colleague, one of the best and bravest men I know, Senator John Glenn, said:

> [T]hose 10 amendments we call the Bill of Rights have never been changed or altered by one iota, not by one word, not a single time in all of American history. There was not a single change during any of our foreign wars, and not during recessions or depressions or panics. Not a single change when we were going through times of great emotion and anger like the Vietnam era, when flag after flag was burned or desecrated. There is only one way to weaken our nation.

Senator Glenn said:

> The way to weaken our nation would be to erode the freedom that we all share.

Gary May, who lost both his legs above the knee after a landmine explosion in Vietnam—a veteran who was awarded the Bronze Star with combat ''V'' and the Purple Heart—spoke for all of us when he said:

> [A]s offensive and painful as flag burning is to me, I still believe that those dissenting voices need to be heard. . . . The freedom of expression, even when it hurts, is the truest test of our dedication to the belief that we have that right.

This is not a test of who loves the flag; this is a test of who has the courage to protect the Constitution.

Mr. President, as I said, I think every single American feels the same emotions when they see the flag. I have seen it in so many different kinds of circumstances where I have been moved and touched by what it does symbolize to us. But our flag is, in the end, not the Bill of Rights. It does not carry in it the freedoms that are expressed in the Bill of Rights. It symbolizes those freedoms. The fact is, who we are is embodied, above all, in a document that has not been changed since the beginning. A desecrated flag is replaceable. Desecrated rights are lost forever.

What makes the United States different, I think in many ways stronger than any other nation, is our ability to be able to tolerate opinions we do not agree with, to tolerate diversity, to tolerate the aspiration for a people to be able to express themselves even when we disagree. That is what is different about the United States. Thanks to our Constitution, we are the leading proponent on the face of the planet for the greatest experiment in freedom set forth in words and in practice.

At the end of our national anthem we sing, with hand over chest, to the flag: ''land of the free and home of the brave.'' If this amendment passes, make no mistake about it, we will be a little less free and we will be a little less brave.

Ivan Warner, an American soldier who was imprisoned by the North Vietnamese from 1967 to 1973, wrote:

> I remember one interrogation where I was shown a photograph of some Americans protesting the war by burning a flag. ''There,'' the officer said. ''People in your country protest against your cause. That proves you are wrong.''

And this prisoner of war, not knowing if he would ever be returned to America or whether he would be tortured for what he said, said:

> ''No. That proves that I am right. In my country we are not afraid of freedom, even if

it means that people disagree with us.'' The officer [who was interrogating him] was on his feet in an instant, his face purple with rage. He smashed his fist into the table and screamed at [Ivan] to shut up.

And Ivan said:

While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

In the words of Ivan Warner:

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. . . . Don't be afraid of freedom.

In the final analysis, there are eight other powerful reasons for why we should not do this. They are Iran, Libya, North Korea, China, Cuba, Syria, and the Sudan. And of the many nations—there are about 30-plus of them—that have laws about not burning the flag—even a few of our friends—none of them have a constitution that prohibits it. I do not think the United States of America ought to join those countries, including Iraq under Saddam Hussein, the South Africa of apartheid, and Nazi Germany.

So I ask my fellow Senators, are we really that frightened of somebody's willingness to go out and be stupid? In the United States of America, you have a right to be stupid. You have a right to go out and do something that every one of us thinks is dishonorable or unacceptable. And communities can punish those people in any number of ways. I have voted previously for a statute in the U.S. Senate because I believe a statute is enforceable and does less violence to the Constitution. And there are plenty of ways for prosecutors—on disturbance of the peace or destruction of personal property or any other numbers of ways—to prosecute people. But, in the end, a community of Americans, whose love of flag is so great, is going to ostracize anybody who engages in that kind of behavior. Communities have the ability to make sure they do not get jobs, to make sure they are persona non grata within the community.

It is unbelievable to me, with only two flags we know of being burned in this last year—something like eight or so in the last 365 days in America—that this prompts Senators to feel they have to change the Constitution for the first time and the first amendment for the first time. I think it is wrong. I think our country is bigger than that, and I hope our colleagues in this institution will be today.

Mr. DAYTON. Mr. President, ever since I began my campaign for the U.S. Senate over 6 years ago, I have consistently promised to support the proposed constitutional amendment to prohibit the desecration of the American Flag. Indeed, I am a cosponsor of that constitutional amendment, which will soon be voted upon by the Senate.

I value and respect the first amendment's protection of free speech, and I have personally experienced its importance. When I opposed the Vietnam War in the 1960s and '70s, the first amendment permitted my lawful dissent, although it did not prevent President Richard Nixon's Justice Department from tear-gassing our demonstrations or from unlawfully spying upon me. A generation and another war later, the first amendment again protected my right to speak out against President Bush's policies without intimidation or incarceration, and, this time, without being tear-gassed. I would never infringe upon those precious freedoms of expression and dissent.

The question before us today is not whether we honor the first amendment, which we do, but, rather, whether an act as vile as burning the American flag should be considered ''free speech'' or is it an act of such wanton violence and outrageous disrespect that it should be ''out of bounds''? I come to the second conclusion.

Our Nation's Pledge of Allegiance was first published almost 114 years ago and was established by Congress in 1923. It states, ''I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.''

I note, parenthetically, that the U.S. Supreme Court ruled in 1943 that under the first amendment no one can be compelled to recite the Pledge of Allegiance. Nevertheless, it is one of our most revered statements of citizenship. It does not pledge allegiance to a Democratic or a Republican administration. It does not pledge allegiance to any ideology, policy, or platform.

It pledges allegiance to the flag of the United States of America—and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all. In other words, allegiance to something above any one of us. To something that unites us as one people indivisible, with liberty and justice for all.

Those are our Nation's founding principles. They are our eternal ideals. We can disagree; we can dissent; we can lawfully protest; we can say almost anything we want and do most of what we want, because those are our rights. They are precious, inviolable rights.

But we also have responsibilities. This great country cannot succeed, if we concern ourselves with nothing more than our rights as individuals. We must equally consider our responsibilities as citizens.

This Constitutional amendment says that one of those responsibilities of citizenship is to not burn or otherwise desecrate our American flag. I am astounded that the U.S. Supreme Court could construe that as free speech, but it has. This amendment would simply permit Congress to declare otherwise and to place that senseless act of desecration outside the boundary of freedom of speech, just as the Supreme Court recently ruled burning a cross outside that boundary of protected free speech.

I am willing to take this carefully considered action, because of what I know the American flag means to millions of American citizens. Many of them are relatives or friends of heroic Americans who have given their lives to defend our country. In my view, those great American heroes have consecrated our flag with their precious blood. Honoring our flag honors their extraordinary sacrifices, as it honors the principles and ideals for which they died.

That is why I will vote for this constitutional amendment.

Mr. OBAMA. Mr. President, I rise today to speak in opposition to the proposed constitutional amendment.

There have been so many moments in our history where the flag was not just a piece of cloth. It was a focal point that united this country through both our most difficult days and our proudest moments. This is the flag that inspired Francis Scott Key in Baltimore Harbor during the War of 1812. It is the flag that Illinois soldiers rallied to during the Battle of Gettysburg. It is the flag that marines raised over Mount Suribachi on Iwo Jima during a battle that claimed 6,800 American lives. It is the flag that Neil Armstrong and Buzz Aldrin planted on the surface of the moon. It is the flag that was draped over the charred Pentagon following the September 11 attack. It is the flag that rests atop the caskets of the men and women who give the ultimate sacrifice in Iraq and Afghanistan.

I cannot imagine anything more abhorrent to a veteran than seeing the flag they fought for, or watched their good friends die for, being burned to make a political point. Although I have not served in the military, I too have great pride in our flag, as do the overwhelming majority of Americans. I share outrage at the thought of its being disrespected. I have never seen anyone burn a flag. And if I did, it would take every ounce of restraint I had not to haul off and hit them.

But we live in a country of laws. Laws that stop people from resorting to physical violence to settle disagreements. Laws that protect free speech. The primacy of the law is one of the things that protects us, one of the things that makes us great.

When I took this job last year I was asked to swear an oath of office. It is a short, simple oath, and everyone in this Chamber has repeated it. It begins: ''I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same.'' Our first allegiance here is not to a political party, or to an ideology, or to a President, or even popular opinion, it is to the Constitution and to the rule of law.

Senator BYRD often talks about the Constitution as a remarkable document that transformed a revolutionary movement to a stable government that has lasted more than 200 years and is the envy of the world. He is right.

The Constitution has only been amended 27 times. The amendments include guarantees of our most basic freedoms, the freedom of religion, the right to a trial by jury, the protection against cruel punishment. The amendments also chronicle the great struggles of this country. The 13th amendment abolished slavery in 1865. The 17th provided for the direct election of senators in 1913. The 19th amendment gave women the right to vote in 1920. The 24th eliminated the poll tax in 1964.

The Framers established a high bar for amending the Constitution, and for good reason. It is difficult to amend the Constitution because our founding document should not be changed just because of political concerns or temporary problems. The Constitution should only be amended to address our Nation's most pressing problems that can't be solved with legislation. But even the supporters of this amendment are hard pressed to find more than a few instances of flag burning each year.

Today, there are hundreds of thousands of U.S. troops risking their lives for their country, looking to us to come up with a plan to win the peace so they can come home. Across America, there are millions who are looking for us to do something about health care, about education, about energy. We are only supposed to be in session for about 50 more days for the rest of this year. To spend the precious time we have left battling an epidemic of flag burning that does not exist is a disservice to our country.

Mr. President, 141 years ago, Congress passed—and the States approved—the 13th amendment to end slavery. A century and a half later, Americans can look back at that effort and be proud. What will Americans 141 years from now think if we pass the 28th amendment to ban flag burning? Will they breathe a sigh of relief that we made the world safe from flag burners? Or will they see this for what it is: an effort to distract, an effort to score political points, an effort to use the same flag that should unite us to instead divide us? I believe they will laugh and shake their heads.

During this debate, we have heard much about Colin Powell's opposition to this amendment. I am moved by his statement that:

> I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

His view is shared by the many calls and letters I have received from Illinois veterans. All of them full of honest passion, and all of them sharing a common love of flag and country. I want to read a bit from a few of the letters I received.

Richard Savage of Bloomington wrote me:

> I am a Vietnam veteran and Republican. . . . Those who would burn the flag destroy the symbol of freedom, but amending the Constitution would destroy part of freedom itself.

Marci Daniels from Edwardsville wrote:

> I am a veteran and I oppose the flag amendment. I did not put my life on the line for the flag, but for the Constitution and the freedoms it guarantees.

Terrence Hutton of Winnetka wrote:

> As a Vietnam war veteran, I did not like the steady fare of flag-burnings we seemed to see on TV and in the print media back in those unhappy days, but I accepted them as part of the price we pay as a free society. . . . We have survived this long without a flag-burning provision in the Constitution and can go right on surviving without one.

These are all proud Americans, veterans. They know that we should not play politics with the Constitution. We shouldn't distract voters in an election year, when there are so many common challenges we face and so little time to face them.

There is, in fact, another way. There is a way to balance our respect for the flag with reverence for the Constitution. Senators CLINTON and BENNETT are proposing an amendment to this proposal that would protect the flag without amending the Constitution. Their statutory approach is a new one that doesn't fall into the same constitutional traps that doomed previous flag protection bills. The Clinton-Bennett amendment is narrowly drawn to meet the first amendment tests the Supreme Court has laid out in previous court decisions. It makes it illegal to burn a flag in a threatening way or to incite violence. I believe this statute will pass constitutional muster and be upheld by the Supreme Court.

I will vote for the Clinton-Bennett amendment in an effort to find a way to balance our respect for the flag and our protection of the Constitution. I urge my colleagues to do the same.

Mr. NELSON of Florida. Mr. President, I intend to vote in favor of this resolution.

The flag is a sacred symbol to this country and its citizens. Men and women have given their lives to protect the ideals embodied in the flag, and it's a unifying representation of America and all that we value. I believe it is a symbol worthy of protection.

This resolution will give Congress the ability to consider legislation that will protect the flag and prevent its desecration.

Mr. CONRAD. Mr. President, today I will support the Durbin amendment to pass a statute to protect the flag and address the very real problem of protests at military funerals.

I was recently at a funeral for a North Dakota soldier, and I was disgusted—absolutely disgusted—by the behavior of protesters who used the funeral to convey their twisted message of hatred for our soldiers and their families. The Durbin amendment would restrict these protests from the immediate area of the funeral, and it would protect the flag without amending the Constitution of the United States for that purpose.

Anybody who advances an amendment to the Constitution has to clear a very high threshold. The Constitution of the United States is one of the greatest documents in human history. It is not to be amended lightly. And it should certainly not be amended when there are other ways of addressing a problem.

In our history, more than 10,000 amendments to the Constitution have been proposed. Only 27 have been approved. Since I have been in the Senate, more than 850 constitutional amendments have been offered.

Thank goodness we have not adopted them. Many of them would have made that document worse. Many of them would have done things that ought to be done by statute.

The Constitution is a framework. It does not deal with specifics. It deals with the larger framework of how this Government should operate. Individual laws, individual statutes are meant to deal with the specific problems that we encounter as a society within the framework provided by the Constitution. Some would have us change that basic organic document to deal with this problem. I believe that would be a mistake that we would come to regret.

Flag burning and flag desecration are unacceptable to me and unacceptable to a majority of Americans. They are certainly unacceptable to the people of the State that I represent. But the first answer cannot and should not be to amend the Constitution of the United States.

Of course, it is unacceptable to engage in flag desecration. Of course, it is abhorrent to desecrate the flag. We do not need to amend the Constitution to address these few instances of deplorable conduct. We have an alternative. The alternative is to pass a statute.

The proponents of the constitutional amendment will say that the statutory alternative will be ruled unconstitutional, as has the previous attempt to pass a statute.

But this statute has not been ruled unconstitutional, and a range of constitutional experts believe it would pass constitutional muster. They are saying to us this statute would be upheld. It is my view that we ought to see if they are right before we conclude that the only alternative is to amend our Constitution. We ought to give the Supreme Court a chance to look at this statute, and see if we can find a way to protect the flag by statute before we amend the Constitution.

I am not alone in taking this position. I have heard from distinguished veterans all across my state and all across the country who agree that the Constitution does not need to be amended to protect the flag.

For example, Rick Olek, a 22-year member of the American Legion, a

combat veteran, and a Purple Heart recipient, has written:

As a combat veteran, I fought for this country and I respect our flag, but I also respect the rights of freedom of speech. The position of Senators Conrad and Dorgan on the flag amendment is consistent with protecting first amendment rights as well as protecting our flag.

Similarly, Mike Dobmeier, former National Commander of the Disabled American Veterans, says:

I fought—and many of my comrades died—to protect the freedom and ideals the U.S flag embodies. Senator Conrad understands our sacrifice and he is working tirelessly to protect Old Glory. Last year he introduced bipartisan legislation that would criminalize the desecration of our flag, rather than changing the Constitution. Senator Conrad knows that we can protect our flag without infringing on the precious freedom it represents.

And Brad Maasjo, a retired Air Force Colonel from Fargo, ND, writes:

There is a poem that says in part that '. . . it is the soldier, who fights for the flag . . . whose coffin is draped by the flag . . . who wins the right to protest the flag. . . .'' Maybe if we take away that right, we also lose sight of what he fought for in the first place.

These are just a few of the people I have heard from, proud North Dakota veterans who support the flag but also revere our Constitution. They tell me that they abhor flag desecration, but that the flag is a symbol for the liberties and freedoms they fought to protect. They do not want to rush to amend the Constitution when there are other options available.

Finally, GEN Colin Powell, Secretary of State Powell, has written the Congress to say he does not believe that the appropriate response is to amend the Constitution of the United States. GEN Colin Powell, former Chairman of the Joint Chiefs of Staff, the man who led us in Desert Storm, a man for whom I have profound respect says:

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. . . . I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.

I urge my colleagues to step back from the constitutional amendment and instead support the Durbin amendment. This is the wiser course. It is the right course. It is one that will stand the test of time.

Mr. AKAKA. Mr. President, I rise today in opposition to S.J. Res. 12, the flag desecration constitutional amendment.

I believe our flag is a living symbol that represents this great country and its rich history. As a World War II veteran, I feel a deep connection to our flag, and it offends me when I see the flag burned or treated poorly. Our flag deserves our reverence and respect.

As a U.S. Senator, I have sworn to protect the Constitution and the freedoms for which it stands. I believe it would be wrong to amend the Constitution to infringe upon our first amendment freedoms. Although I find it personally detestable that someone would desecrate the flag, it is my duty to protect the right to free speech and expression. To me, this amendment would protect our Nation's preeminent symbol at the cost of sacrificing the very freedoms that it is supposed to represent.

This amendment is all the more troublesome because it is wholly unnecessary. Americans are not lacking in patriotism nor is there an epidemic of flag burning. To the contrary, in these five years since the tragic events of September 11, 2001, Americans have vigorously rallied around our flag and the liberties it represents.

For these reasons, Mr. President, I will be opposing S.J. Res. 12, and I urge my colleagues to do the same.

Mr. LEVIN. Mr. President, the American flag is a cherished symbol of our freedom and the democratic values and liberties that we believe in, and we should respect the flag as a reminder of the bravery of the men and women who have lost their lives fighting under its colors for our country. One of the most poignant images to a patriotic American is when that flag is draped over the coffin of a fallen soldier.

I detest flag burning. To deliberately desecrate the flag is an insult to anyone who has fought to defend it and to all of us who love it. Any person who destroys such an important reminder of sacrifice and patriotism deserves the scorn of all decent men and women.

Although I love the flag, I also love the Constitution and its Bill of Rights. For more than 210 years, this timeless document has protected our most basic freedoms. The Supreme Court has ruled that a physical attack on the flag is a protected form of speech under the first amendment.

In 1984, Gregory Johnson publicly burned an American flag as a means of political protest and was convicted of desecrating a flag in violation of Texas law. In Texas v. Johnson, the Supreme Court held that, although ''the government has a legitimate interest in making efforts to 'preserv[e] the national flag as an unalloyed symbol of our country,' '' Johnson's burning of the flag was constitutionally protected speech.

In response to that decision, Congress passed the Flag Protection Act, a Federal law to prohibit flag-burning and other forms of desecration. I supported that legislation, but the Supreme Court found it unconstitutional in United States v. Eichman. The Court found that the statute suppressed constitutionally protected expression, and held:

The Government's interest in protecting the ''physical integrity'' of a privately owned flag rests upon a perceived need to preserve the flag's status as a symbol of our Nation and certain national ideals. But the mere destruction or disfigurement of a particular physical manifestation of the symbol, without more, does not diminish or otherwise affect the symbol itself in any way. . . . While flag desecration—like virulent ethnic and religious epithets, vulgar repudiations of the draft, and scurrilous caricatures—is deeply offensive to many, the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.

Now that the Court has decided that flag burning as a means of expression is constitutionally protected, the question for the Senate is whether to amend the Constitution to ban such speech. Our Constitution has been amended only 17 times since the adoption of the Bill of Rights in 1789. The Bill of Rights has never been amended. I believe that to deliberately weaken the first amendment rights of all Americans is not the answer to those very few who attack a symbol of freedom.

Senator John Glenn, an American hero who fought for our country through two wars and took our flag into space, eloquently expressed this view before the Judiciary Committee:

[I]t would be a hollow victory indeed if we preserved the symbol of our freedoms by chipping away at those fundamental freedoms themselves. Let the flag fully represent all the freedoms spelled out in the Bill of Rights, not a partial, watered-down version that alters its protections.

The flag is the nation's most powerful and emotional symbol. It is our most sacred symbol. And it is our most revered symbol. But it is a symbol. It symbolizes the freedoms we have in this country, but it is not the freedoms themselves.

Steve Sanderson, a Michigan Vietnam-era veteran, expressed a similar view as quoted in the Detroit Free Press on June 14, 2006. He said:

Veterans certainly cherish the flag, perhaps more than civilians who have never been to war can realize. But commitment is not confined to that symbol. I am hurt when I see the flag burned, largely because I've also seen the flag draped on coffins of troops. But my patriotism lives in my heart and mind. We set a very dangerous precedent if we argue that certain forms of speech should be restricted because the majority disagrees with the message and how it is expressed.

Mr. President, I love our flag. I love our Constitution. Flag desecration is repugnant, but it would be a mistake to let a flag burner cause us to weaken our first amendment guarantees. If we take this fateful step of singling out one symbol to exempt from the first amendment, will we next authorize Congress to make it a crime to rip up a copy of the Constitution or a copy of its Bill of Rights?

The American flag symbolizes our freedom, and that includes freedom from an overreaching government that decides which symbols are worthy of protection. We are honoring our flag and the republic for which it stands by refusing to amend the Bill of Rights in response to a few misguided people.

I do support the statute that will be offered as a substitute for the constitutional amendment, which provides that: ''Any person who shall intentionally threaten or intimidate any

person or group of persons by burning, or causing to be burned, a flag of the United States shall be fined not more than $100,000, imprisoned for not more than 1 year or both.'' The Supreme Court has held that the first amendment does not provide full protection for what are called ''fighting words.'' or those words which, by their very utterance, inflict injury or tend to incite an immediate breach of the peace.

Also, in Virginia v. Black, a case that involved the burning of a cross, the Supreme Court held that the government can prohibit people from burning crosses with the intent to intimidate. In that case, Virginia law prohibited cross burning through a statute that made it unlawful for any person to burn a cross with the intent of intimidating any person or group of persons. A majority of the Court held that it believed the substantive prohibition on cross-burning with an intent to intimate was constitutionally permissible. Writing for the majority, Justice O'Connor said:

> The protections afforded by the First Amendment, however, are not absolute, and we have long recognized that the government may regulate certain categories of expression consistent with the Constitution . . . Thus, for example, a State may punish those words ''which by their very utterance inflict injury or tend to incite an immediate breach of the peace. . . . We have consequently held that fighting words ''those personally abusive epithets which, when addressed to the ordinary citizen, are, as a matter of common knowledge, inherently likely to provide violent reaction'' are generally proscribable under the First Amendment.''

The substitute also contains an important provision to support our military families in their time of grief. During the past year, a fringe religious group has held protests at more than 100 military funerals across the Nation, claiming that the deaths of U.S. soldiers is God's punishment of America. In May, Congress passed and the President signed into law the Respect for America's Fallen Heroes Act, which prohibits demonstrations at and around national cemeteries. This amendment would expand that Act to include military funerals at private cemeteries, funeral homes, and houses of worship. The families of the fallen have a right to be free to bury their loved ones and our heroes in peace.

I support this narrowly drawn substitute because it both protects the flag, consistent with the Bill of Rights, as well as honors those who have made the ultimate sacrifice while fighting under its colors.

Ms. MIKULSKI. Mr. President, I rise to support the substitute offered by Senator DURBIN to ban the desecration of our flag. The Durbin alternative stands for the same things I do. It protects the principles embodied in our Constitution—as well as our U.S. flag. It does not amend the Constitution, but it will get the job done by punishing those people who help wage war against the symbol of this country and everything it stands for.

I know that we have gone down this road before, by passing statutory language to ban flag-burning only to have the Supreme Court overturn it. But this language has been specifically crafted so that it will pass constitutional challenge.

It says you cannot get away with abusing the flag of the United States or using it to incite violence. This is an exception the Supreme Court has allowed. The Durbin substitute says you can't use this Nation's symbol of freedom and turn it into a symbol of disrespect.

If there is a way to deal with and punish those who desecrate our U.S. flag without amending the Constitution, I am all for it. That is why I support the Durbin Substitute.

I feel very strongly about this issue. I have voted for legislation to prohibit flag burning, and I have voted against amending the U.S. Constitution. Today, I will do so again.

I take amending the U.S. Constitution very seriously. In the entire history of the United States we have only amended the Constitution 17 times after the Bill of Rights. Seventeen times in over 200 years—that's it.

We have amended the Constitution to extend rights. We have amended the Constitution to end slavery, give women the right to vote, and guarantee equal protection of the laws to all citizens. The Constitution protects our liberty and it is the symbol of the strength of our Nation. I believe that it is my obligation as a Member of this body to protect its integrity and strength.

So many of our veterans have fought to protect our flag and what it stands for in battle. They have defended our flag and the nation against foreign enemies. These men and women fought valiantly to protect America and this issue is very important to veterans, who fall on both sides of the debate.

Many want an amendment to protect this important symbol of our Nation. Others know that the flag is a symbol of our freedom but our freedom endures beyond the cloth of the flag.

I respect how strongly they feel about our flag and all that it stands for. I share their concerns and have seriously considered supporting a constitutional amendment.

But, I have weighed the concern about protecting this national symbol with the need to defend our Constitution and the rights of free speech. I believe that the substitute offered by Senator DURBIN strikes the right balance. My colleague from Illinois has offered an alternative to amending the Constitution that would protect the flag and protect the Constitution. I will support that alternative approach today.

Yet, I can't help but be concerned about why we are raising this issue now. There has not been a sudden surge in flag burning. In fact, to the contrary, I see more Americans waving their flags proudly as they support our troops overseas. It disappoints me that we raise this issue now, instead of focusing on priorities that really matter to veterans.

Instead of focusing on amending the Constitution, we should be standing up for our veterans where it really counts. Support for our military in the field must be matched by support for our veterans at home. This means deeds, not just words.

There are 25 million veterans in the United States. These veterans served with honor, bravery and sacrifice. The way to thank them is with a commitment to veteran's healthcare, veteran's programs and veteran's services.

Whether at Iwo Jima, Pork Chop Hill, the Mekong Delta, Falluja or the mountains of Afghanistan, our veterans shouldn't have to fight for the services they need and deserve at home. Instead of debating this amendment, the Senate should take up and pass Senator AKAKA's Keeping Our Promise to America's Veterans Act.

I am proud to cosponsor this bill, which does five things to provide real support to our veterans with deeds, not just with words. First, it makes sure veterans get full funding for veterans medical care by accounting for growing vets population and rising health care costs. Second, it provides mental health care to vets from Afghanistan and Iraq. Third, it allows VA hospitals to fill prescriptions written by private doctors. Fourth, the bill guarantees concurrent receipt of military retired pay and VA disability benefits. Finally, this bill makes it easier to take advantage of the G.I. bill by excluding G.I. benefits from financial aid eligibility computations.

I am disappointed that the Senate has chosen to spend time on this debate, instead of taking up this important bill and keeping our promise to America's veterans. We are giving our veterans rhetoric instead of results, and I am deeply disappointed for Maryland's 500,000 veterans, and veterans all across the Nation.

Mr. HARKIN. Mr. President, I have come to the floor today to speak in opposition to the flag desecration amendment to the Constitution.

If I were strictly following my emotions, I would no doubt favor this amendment. After all, I can imagine few acts more despicable, offensive, and cowardly than to deliberately desecrate the flag of the United States of America. But in considering this constitutional amendment, which for the first time would amend the Bill of Rights, we have a solemn responsibility to separate reason from passion. We have a responsibility to preserve and protect the Stars and Stripes of the United States of America. But even more importantly, we have a responsibility to preserve and protect the principles and rights for which it stands.

Fortunately, instances of flag desecration in the United States are extremely rare. Nonetheless, there is no denying the emotions and anger that

are incited even by the thought of someone desecrating the American flag. I myself feel those emotions and that anger. I believe that we all do. We all have memories that cut deep to the heart, and when we see the flag on fire it feels like something burning inside of us.

I remember what the flag meant to my mother, an immigrant from what is now Slovenia, who came to America speaking just a few words in English. When I was growing up, the American flag was always proudly displayed in our home because, to my mother, that flag meant the freedom of her new country.

I have not forgotten my mother's pride, and even now the American flag, standing proudly by my desk, is the first thing I see when I go to work in the morning and the last thing I see when I leave to go home at night.

I remember, too, the friends I lost in Vietnam. I remember escorting the body of a fellow pilot to his home and presenting the American flag to his widow. The flag is our country's ultimate tribute to a fallen soldier.

So it is with strong feelings—right here in my stomach and right here in my heart—of rage and disgust that I view those who would desecrate my flag, defile my memories, and dishonor my heritage.

I think back to my days flying jets in the Navy.

I think of the friends I had, and the friends I continue to have as a proud member of American Legion Post 562 in my hometown of Cumming, IA.

Over the years, I have turned to my fellow veterans to see how they would vote on such an amendment. Some were for, some against. But I have been most impressed by the arguments of those who oppose a flag desecration amendment.

Frankly, I expected my neighbor, who earned five Purple Hearts in combat, to be gung-ho for a constitutional amendment. But he told me he was absolutely opposed to an amendment. He said, ''I fought for freedom. I didn't fight for doing away with freedom.''

An Iowa veteran I met at a coffee shop had this common-sense perspective. Speaking of the flag-burner in the case of Texas v. Johnson, he said: ''Look, this flag burner, this Greg Johnson, he's just one of a handful of kooks. Should we change the Bill of Rights, which has never been changed, for a handful of kooks?''

Most moving to me was the article I read years ago in the Cedar Rapids Gazette by a former prisoner of war, James Warner.

Let me read to you part of his article:

> It hurts me to see other Americans willfully desecrate the flag. But I have been in a communist prison where I looked into the pit of hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners.

Mr. Warner went on to recount how, in a North Vietnamese prison camp, he was given a choice: He could renounce his country and leave, or stay and be tortured. James Warner chose to stay. The North Vietnamese tried to break his spirit but they couldn't. During one interrogation, his captor showed him a photograph of some Americans protesting the war by burning a flag.

''There,'' the North Vietnamese officer told him, ''People in your country protest against your cause. That proves you are wrong.''

''No,'' Warner said, ''That proves I am right. In my country we are not afraid of freedom, even if it means that people disagree with us.''

In that moment, the interrogator was on his feet—his face purple with rage, according to Warner's account. There was also pain in the interrogator's eyes, compounded by fear. The Communist feared freedom; only freedom could be used to defeat him.

Likewise, in 1989, the Chinese Communists feared the students in Tianamen Square who burned the Chinese flag. The students' protests were silenced with tanks and guns. As communism crumbled across Eastern Europe in the late 1980s, expressions of freedom took many forms: protests, speeches, underground newspapers, strikes—and yes, even flag desecrations. And when we saw those torn and burned flags, symbols of Communist domination, did we denounce these protestors for defiling their own State symbols? Of course not. We praised them for their acts of political defiance. Burning and tearing their flags represented a powerful act of political speech, a denunciation of the communist regimes that had oppressed those countries for decades.

And once the Communist regimes began to fall, what came next? Calls for Western-style guarantees of rights to freedom of the press, freedom of association, and freedom of speech. Many called for a constitution. They knew what some of us seem to forget: That the only way those freedoms can be protected is with an inviolable Bill of Rights such as our own. A Bill of Rights that has stood unchanged for more than two centuries—despite Civil War, Depression, two world wars, and powerful internal movements of dissent. Even at those times of profound turmoil, we resisted any temptation to amend the Bill of Rights.

As a veteran, I will never, ever do anything to show disrespect for the flag. At the same time, I will never, ever do anything that would diminish the freedom our flag represents.

In our churches, synagogues, and mosques, we are taught not to worship the idols of our faith, but rather the ideals of our faith. Likewise, patriotism is not measured, first and foremost, by our love for the flag as a physical object, but by our love for the rights and ideas the flag stands for.

I do not want to see the flag become another Golden Calf—an object to be worshipped for the sake of worshipping. The flag is only as powerful as the republic—and the rights and ideals—for which it stands.

Back in 1990, when the Senate first debated—and rejected—a flag desecration amendment, I remember reading a letter to the editor of the Burlington, IA, Hawkeye, written by a World War II veteran who had volunteered for duty. He wrote:

> I served my country under the flag. I pledged allegiance to the American flag, and to the Republic for which it stands. 'Stands' is the key. The flag stands for the government. The government guarantees us free speech. My allegiance is to the flag however it is displayed, cloth, paper, paint, or the one that waves continuously in my mind. That one, in order to burn, they would need to burn me. I like the Bill of Rights just as it is. Exactly what the flag stands for.

So wrote the veteran from Mount Pleasant, IA. And he concluded with these words: ''Isn't it better to put up with a few disgusting frustrating acts of free speech than to open a Pandora's box?''

I have to agree with his characterization of this amendment as a ''Pandora's box'' which, once opened, could lead to other proposals to punch holes in the Bill of Rights.

Mr. President, I hope that the Senate will reject this amendment, once again. But I believe this debate can have a positive legacy—not by diminishing our rights as citizens, but by increasing public displays of the flag, increasing people's knowledge and understanding of the flag's history, and increasing good citizenship and public service.

We are proud of the flag. Let us fly the flag.

We are proud of the flag. Let us tell our children and grandchildren about what that flag represents, what it means and why so many died for it.

That flag in my mother's house was not used as a tablecloth, it was not used as a scarf, it was not used as a piece of clothing. I grew up believing there was a proper way to hold the flag, a right way to display it. We need to take it a step further and educate people, young and old, as to the meaning behind the symbols—behind the flag and our Bill of Rights.

Mr. President, next week we celebrate 230 years since our Declaration of Independence. Fireworks will recall the 'rocket's red glare' and the 'bombs bursting' overhead when those who were first to wear the uniform of the United States Armed Forces put their lives on the line.

And in all of our 50 States, the American flag will be hailed, waving in the breeze over courthouses and city halls, public buildings and private homes. Pride will be felt and respect shown, not because it is mandated by law, but because it is embedded in our hearts.

I can think of no more patriotic way to celebrate the Fourth of July, no better way to show respect for the American flag and for the principles for which it stands, than by voting against this proposed amendment to the Bill of Rights.

Ms. SNOWE. Mr. President, I rise today to support in the strongest terms the proposed constitutional amendment to grant the States and Congress the power to prohibit the physical desecration of the flag of the United States.

Our flag occupies a truly unique place in the hearts of millions of citizens as a solemn and sacred banner of freedom. As a national emblem of the world's greatest democracy, the American flag should be treated with unyielding respect and scrupulous care.

At this time when Americans are fighting and, tragically, perishing under the flag of the United States, it is long overdue that we pass a constitutional amendment to protect that very symbol of American ideals from acts of desecration. We lost the effort by just 4 votes 6 years ago in the Senate. Meanwhile, the other body has done its duty and passed a bill twice. We in this chamber must finally do the right thing and protect our flag once and for all and for all time

With the introduction of this resolution, we resume our effort to protect the greatest symbol of the American story and American experience. There is no more powerful example of freedom, democracy, and our steadfast commitment to those principles than the American flag , and it is altogether fitting and just that we try to ensure that it is publicly displayed with pride, dignity, and honor.

I cannot underscore the point enough that the flag is not merely a visual icon to us, nor should it be. The American flag is not just another piece of cloth. It is not just another banner or logo or emblem. It is our revered testament to all that we have defended and protected. Too many Americans have contributed too much and sacrificed too much . . . their labor, their passion, and in many cases their lives for the flag to be simply and frivolously regarded. The flag permeates our national history and relays the story of America in its most direct, and most eloquent terms. Indeed, knowing how the flag has changed—and in what ways it has remained constant—is to know the profound history and limitless hopes of this country.

More than 220 years ago, a year after the colonies had made their historic decision to declare independence from Britain, the Second Continental Congress decided that the American flag would consist of 13 red and white alternating stripes and 13 white stars in a field of blue. These stars and blue field were to represent a new constellation in which freedom and government of the people, by the people and for the people would rule. The colors of the flag are representative, as well. Red was to represent hardiness and valor, white was to represent purity and innocence and blue was to represent vigilance, perseverance and justice. And as we all know, the constellation has grown to include 50 stars, but the number of stripes has remained constant. In this way, the flag tells all who view it that no matter how large America may become, she is forever rooted in the bedrock principles of freedom and self-government that led those first 13 colonies to forge a new nation.

Even more significant is the fact that the flag also represents our enduring pledge to uphold these ideals. This dedication has exacted a high human toll, for which many of America's best and brightest have given their last full measure of devotion. It is in their memories and for their ultimate sacrifice to America's ideals that I am proud to support this amendment.

Make no mistake, this amendment is necessary because the Supreme Court, in its 1990 U.S. verses Eichman ruling, held that burning the flag in political protest was constitutionally protected free speech. No one holds our right to free speech more dearly than I do. But I have long held that our free speech rights do not entitle us to consider the flag as merely personal property, to be treated any way we see fit, including its desecration for the purpose of political protest. The fact is the Eichman decision unnecessarily rejects the deeply held reverence millions of Americans have for our flag. With all the forums for public opinion available to Americans every day, from television and radio, to newspapers and Internet chat rooms, Americans are afforded ample opportunity to freely and fully exercise their first amendment rights, even if what they have to say is overwhelmingly unpopular with a majority of American citizens. At the heart of the issue is respect. I applaud the right to protest and to assemble in order to express opinion, dissent, or a point of view. Write letters to the editor. Start a website. Create a blog. Organize. Leaflet. March. Chant. Speak out. Petition. Do any and all of these things but do not burn our flag.

As we consider this amendment, we must also remember that it is carefully drafted to simply allow the Congress and individual State legislatures to enact laws prohibiting the physical desecration of the flag, if they so choose. It certainly does not stipulate or require that such laws be enacted, although many States and the Federal Government have already demonstrated widespread support for doing so. In fact, 48 States, including my own State of Maine, along with the Federal Government, have had antiflag burning laws on their books for years and that was prior to the Supreme Court's rulings on this issue. So, in effect, what this resolution does is simply give the American flag the protection that almost all the States, the Federal Government, and a large majority of the American people have already endorsed.

Whether our flag is flying over the U.S. Capitol, a State house, a military base, a school, Fenway Park, or on a flag pole on Main Street, the stars and stripes represent the ideals and values that are the foundation of this great Nation. Our flag has come to not only represent the pride we have for our Nation's past glories, but also to stand for the hope we all harbor for our Nation's future.

Perhaps it was The Reverend Henry Ward Beecher who captured best the essence of the flag's meaning and symbolism more than a century ago when he wrote that ''a thoughtful mind, when it sees a nation's flag, sees not the flag only, but the nation itself and whatever may be its symbols, its insignia, he reads chiefly in the flag the government, the principles, the truths, the history which belongs to the nation that sets it forth.''

Mr. President, our flag represents not just the new constellation of freedom envisioned by our forebears, but the distillation of that freedom, too everything that was behind the forming of our nation and everything that informs our nation and who we are to this day. So, it is with undaunted pride and unwavering hope that I urge my colleagues to support this amendment.

Mr. DOMENICI. Mr. President, I rise today in support of the flag protection amendment, S.J. Res. 12.

This amendment was precipitated by the Supreme Court's ruling in Texas v. Johnson, which overturned a law which prohibited flag burning. The ruling made the burning of the American flag a legitimate exercise of free speech.

I believe freedom of speech, guaranteed in the first amendment, is one of the fundamental freedoms the Founding Fathers sought to protect since it is the basis for every other freedom we enjoy. However, in the past the Supreme Court has ruled that freedom of speech is not an absolute freedom. For example, it is unlawful to yell ''fire'' in a crowded auditorium, and it is also illegal to threaten to harm the President of the United States.

I disagree with the Supreme Court's analysis of flag burning. The Supreme Court erred in equating free speech with the desecration of the American flag. The act of desecrating the American flag goes beyond merely expressing a point of view—it is a violent act against the symbol of our Nation. It is not an act of free speech. Every American is free to denounce our Nation and ideals for which the flag stands. Frankly, I think it would be terribly misguided, but if that is what they want to say, they have the right to say it. There is a vast difference, however, between speaking one's mind and desecrating the symbol of our Nation.

The American flag is a unifying symbol of our Nation and is considered by many to be the physical embodiment of the founding principles of this country. The predominance our flag holds in the national psyche was reconfirmed after the September 11 attacks, when the vision of the red, white and blue galvanized our Nation.

The American flag is not just a piece of cloth. It is a symbol of freedom and of the sacrifice it takes to gain that freedom. The red stripes are there to

remind us of the blood that was and continues to be shed in defense of this Nation.

I have the deepest reverence for the U.S. Constitution, and I do not believe it should be amended casually. However, in this case, I believe the American flag and all it represents deserves the protection of our laws. Therefore, I have decided to support a constitutional amendment that would require due respect for this great symbol of freedom.

Mr. FEINGOLD. Mr. President, I understand the desire of my colleagues to defend the flag, and I share their outrage at the despicable conduct that some families of fallen servicemembers have had to endure as they bid farewell to their loved ones. But I cannot support the substitute amendment offered by the senior Senator from Illinois. The Supreme Court has twice held that criminalizing flag desecration violates the first amendment. Flag burning is unacceptable, but outlawing certain forms of flag destruction based on the message that the misguided person is trying to convey raises obvious first amendment problems.

The vast majority of flag desecration incidents can be prosecuted under criminal trespass, destruction of private property, and other State and local criminal statutes. We do not need a Federal statute to handle the handful of other incidents that occur each year, and we certainly should not amend the Constitution to make such a statute possible.

Mr. INHOFE. Mr. President, today this Chamber considers whether to send a constitutional amendment to the States and people of the United States, a United States that is represented by that glorious flag that stands to your right, Mr. President.

This is not the first time the people's elected representatives have acted to protect the flag, but as a result of a willful judicial resolve, we are forced to take this decisive action as the people's duly elected policymakers.

I find it highly doubtful that the Framers intended the first amendment to cover flag desecration as protected speech. I find it even more unlikely that they intended the courts to be able to tell Congress that it cannot protect our flag. Quoting Alexander Hamilton, in The Federalist No. 78, it is Congress who ''prescribes the rules by which the duties and rights of every citizen are to be regulated,'' not the courts. This is a principle I have consistently stood for and will stand for again when I vote in favor of S.J. Res. 12. When I see images on the news of different groups around the world burning American flags, it sickens my stomach. That is not speech: that is chaos. That is the mob mentality that is rebelliousness. That is conduct that appeals to the deepest and darkest parts of human nature. That is not the kind of riotous conduct that should be protected in this Nation; this amendment will allow us to make that clear once and for all.

I have heard some say—Justice Brennan in Eichmann—that allowing protesters to burn the flag is the greatest tribute to that flag, that what the flag stands for allows those who hate it to abuse it. Though I understand the merits of this argument, I disagree that it gives any kind of real reason to allow this behavior. This pseudo reverent justification could also defend spitting on our soldiers returning from duty or the hateful, vile-spewing protesters who want to defile the funerals of our Nation's heroes. After all, it is our soldiers who give these protesters a free country in which to protest.

Opponents say that one has a right to burn the flag. I say that we have a right not to have our flag burned. Countless soldiers and citizens have given their lives defending what this flag stands for. It is time that we, as the Congress of the United States, stand up and defend our flag, that we recognize that our national symbol that represents our system of laws is worthy of the protection of our laws.

Mr. SESSIONS. Mr. President, the amendment we are debating is short and to the point. It contains only 17 words:

> Congress shall have the power to prohibit the physical desecration of the flag of the United States.

We are discussing this today because in 1989, in Texas v. Johnson, five members of the Supreme Court held that flag desecration—specifically burning the American flag—was a form of first amendment-protected speech and Texas's law banning desecration of the flag was unconstitutional. Adding insult to injury, when Congress passed the Flag Protection Act of 1989, codified as title 18, section 700 of the United States Code, five members of the Supreme Court struck down that law as unconstitutional, too, in United States v. Eichman, 1990.

I believe the amendment we are considering today is entirely appropriate, and I am proud to cosponsor it. I wish to respond briefly to some of the criticism I have heard. Some would say: Well, you want to limit free speech when you want to stop burning the flag.

Now, it is true that the Supreme Court, by a 5-to-4 majority, held that the act of burning a flag is free speech. Well, I don't agree. The Supreme Court for a long time has allowed reasonable ''time, place, and manner'' restrictions on speech.

Moreover, the Supreme Court has long recognized that:

> [t]here are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.

The late Chief Justice Rehnquist wrote in his dissent in Texas v. Johnson: ''Far from being a case of 'one picture being worth a thousand words,' flag burning is the equivalent of an inarticulate grunt or roar that, it seems fair to say, is most likely to be indulged in not to express any particular idea, but to antagonize others.'' It is not really ''speech'' at all, but if you consider it some sort of expression, it is certainly inarticulate. It is not of great value compared to the unifying symbol of the flag.

The first amendment is about intelligent debate, argument, concern over policy issues—not whether you get to ''grunt'' or ''roar'' by burning a flag. I don't believe flag-burning was ever intended to be covered by the Constitution. So I believe the Supreme Court got it wrong in Texas v. Johnson and United States v. Eichman.

More importantly, the American people agree that the Supreme Court got it wrong. All 50 States have asked Congress to propose an amendment prohibiting flag desecration. In our democracy, the people have the last say on the Constitution. If the people think the Supreme Court is wrong, they have every right to amend the Constitution and tell it so.

In my view, the flag of the United States is a unique object, and prohibiting its desecration will not in any fundamental way alter the free expression of ideas in this country.

It seems to me if burning the flag is speech and if the Court is correct in saying it is speech and the people of the United States care deeply about protecting the flag, then they should adopt a restricted, narrow constitutional amendment that would allow Congress to stop flag desecration.

Indeed, it would be healthy for this country to adopt a constitutional amendment that would allow the protection of the flag. More Medals of Honor have been awarded for preserving and fighting to preserve the flag than any other. We know the stories of battle when time after time the soldier carrying the flag is the target of the enemy. When he fell, another one would pick it up. When he fell, another one would pick it up. When he fell, another one would pick it up. That is the history.

We pledge allegiance to the flag, not the Constitution, not the Declaration of Independence. We pledge allegiance to the flag because it is a unifying symbol for America, and having a special protection for it is quite logical to me.

I do not believe we should never amend the Constitution. I do not think we amend the Constitution enough. But we want to have good amendments that are necessary, that are important, that enrich us, and that make us a stronger nation. In 1816, Thomas Jefferson wrote: ''Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched.'' Jefferson disagreed and proposed amending a constitution every 20 years or so so that it could ''be handed

on, with periodical repairs, from generation to generation, to the end of time, if anything human can last so long.''

I don't know whether we need to amend the Constitution every 20 years, as Thomas Jefferson proposed, but I do think a constitutional amendment is a healthy way for us to remind ourselves that this Nation is a democratic republic. We are not a nation under the rule of the Supreme Court. The Constitution belongs to ''We the People of the United States,'' as its preamble states—not the judiciary of the United States. The Constitution was democratically adopted. It was meant to be democratically amended. It must remain democratically accountable—or lose its legitimacy as the foundation for a democratic republic.

Let me finally address one more concern about the language of this amendment. It is short. It is concise. And it leaves it to Congress to address the details on what specific forms of conduct to prohibit. I trust Congress to do that. Congress did it in 1989 with the Flag Protection Act codified at title 18, section 700 of the United States Code.

Concern has been expressed that the term ''desecration'' is too broad, too vague. I don't think so. I think it will clearly grant Congress the power it needs without any restriction on our great freedoms, particularly real speech.

Mr. President, the flag of the United States is a unique, unifying symbol of our country and all it embodies. Brave men and women have fought and died for that flag and what it represents. Let us today act to protect the flag and adopt S.J. Res. 12.

Mr. ENZI. Mr. President, I rise in strong support of S.J. Res. 12 which proposes an amendment to our Constitution allowing Congress to prohibit the physical desecration of the flag of the United States. I am proud to be an original cosponsor of the resolution introduced by my colleague from Utah.

Throughout the years of our Nation's existence, many brave men and women have fought and died to defend the freedom that our flag symbolizes. We must honor their memory by protecting our flag and preserving this symbol of our Nation and the unity of the 50 States. I have heard from veterans across my home State of Wyoming about their service and the importance of the flag in both their military and civilian lives. Our flag is a constant reminder of all those who have sacrificed so much so that we might be free.

We are now engaged in a new and different kind of war. We have taken up arms to end the threat of terror. We have been joined by many different nations in that effort, but we are, once again, relying on our own Armed Forces, the greatest fighting force in the world. With the talents and abilities of our service members and our support and prayers, I have no doubt they will get the job done.

When our deployed troops return home, they will deserve our support and encouragement as they return to their everyday lives. I believe they will also expect us to take action to ensure the symbol of our Nation that they carried with them into battle is afforded the protection it deserves. We must ensure our flag is respected and protected as a symbol of our freedoms and the sacrifices that were made.

Over the last couple of days, some Members of this body have made some misleading statements about what this resolution does. Let's be clear—this piece of legislation does not ban anything. It does begin the process of restoring the authority of Congress to pass a flag desecration statute. A constitutional amendment will only become law if it is approved by three-quarters of the States.

I have also heard some of my colleagues claim that the language we are debating is too vague. Again, this is simply the first step in a process. The details will be debated once Congress regains its authority to make laws related to the desecration of the flag. It is then the job of those in Congress to talk about and debate the definition of desecration and what that word will mean in our laws.

Again, I believe our flag should be protected as a symbol of this Nation and our history. It represents us in military actions, in athletic competitions, diplomacy, and any activity we engage in around the world. The flag helped rally the Nation after the attacks of September 11, 2001. It calls to mind those who serve on our police, fire, and emergency response teams, risking their lives every day to ensure we are safe and protected from harm.

Diana and I have a friend from Finland who taught in the United States for a year. She had a flag of Finland that she traveled with while we were debating a flag burning amendment. She couldn't believe that anyone would dishonor their country's flag by burning it. As a symbol of the country, she couldn't believe that anyone would desecrate it in any way. She couldn't imagine that burning or desecrating the flag of a person's own country could have any positive effect. She believed that what people were doing to the symbol of our Nation would have a very detrimental effect overseas.

Changing the law may not change people, but the discussion alone that we are having should point out what is right and wrong and how other countries view the disrespect we demonstrate for our country. People are missing the issue of the protests. They are only seeing the disrespect for the country. We can do better. We must do better. This amendment will help us do better on focusing on problems instead of drama that takes away from ways we can make our lives and our country better.

Our flag symbolizes our hope for the future and our willingness to work together to make this world a better place for us all to live. That hope for tomorrow unites us, guides us, and helps to make us truly one Nation under God, with liberty and justice for all.

I encourage all Senators to support S.J. Res. 12.

Mr. VITTER. Mr. President, the America flag is such an important symbol to our country that from the time we are children, we salute the flag with a hand over our hearts and pledge our allegiance to the flag of the United States of America. For the past two centuries, in battles all around the globe, the American flag has served as an inspiration and rallying point for our Armed Forces fighting for the ideals it embodies. We hold the flag with such reverence that it covers the coffin of America's military heroes who have dedicated their lives to the service of our Nation. Old Glory should be revered and protected because it represents American History, American sacrifice, and hope for our Nation's future.

On the Fourth of July, especially, we are reminded of the sacrifices of our forefathers in founding this great Nation, and the American flag symbolizes that sacrifice. The act of burning or destroying the flag shows a tremendous disrespect for our forefathers and the countless men and women who have given their lives to make the United States what it is today. That's why I am an original cosponsor of the flag protection amendment, and I rise to speak in support of it today.

By supporting this amendment, I believe that I am supporting the will of the people of Louisiana and the American people. I have received so many phone calls, letters, and e-mails from people in my home State of Louisiana in support of a constitutional amendment to prevent the desecration of our American flag. Polls show an overwhelming majority of Americans believe that burning the U.S. flag should be a crime. According to Fox News poll when asked, ''Do you think burning the American flag should be legal or illegal?'', 73 percent respondents said they thought it should be illegal.

Before the Supreme Court issued its decision in Texas v. Johnson, declaring that flag burning is politically expressive conduct protected by the first amendment, 48 States, including Louisiana, and the District of Columbia, had enacted statutes prohibiting the physical desecration of the American flag. In my opinion, the Johnson decision is just one more example of unelected activist judges ignoring the will of the American people. In response to the Court's decision in Johnson, Congress enacted the Flag Protection Act. However, in U.S. v. Eichman the Court struck down the Flag Protection Act, holding that Government's interest in protecting this symbol did not outweigh the individual's right to politically expressive conduct.

Since the Supreme Court issued these 2 decisions, all 50 States have passed resolutions asking Congress to pass a constitutional amendment that would

provide some protection to the American flag. This is overwhelming evidence that the American people disagree with these activist decision and believe that the flag—the symbol of Our nation—should be protected. I believe that we as Senators owe it to our constituents—as their elected representatives—to support this amendment and give Congress the power to enact a law banning the physical desecration of the U.S. Flag.

The Flag Protection Amendment gives Congress the power to enact laws prohibiting the ''physical desecration'' of the flag. This amendment does not ban flag burning—it doesn't ban anything. It merely gives Congress the power to enact legislation if and only if three-fourth of the States ratify the amendment within 7 years. Therefore, this amendment would place the power back into the hands of the American people, which, in my mind, is much better than leaving it in the hands of activist judges.

Opponents of this amendment state that any laws prohibiting physical desecration of the flag, no matter how narrowly tailored, violate an individual's first Amendment right to free speech. However, while the first amendment grants Americans the precious right to free speech, that right is not without limitations. For example, the Supreme Court has held that certain types of hate speech and obscenity are not covered under the first amendment. Additionally, public school teachers may not espouse their personal religious views in the classroom, and attorneys and doctors cannot breach the confidence of their clients.

The first amendment protects a number of avenues for individuals to voice their dissent, but it should not protect the physical desecration of the symbol that embodies the spirit of our Nation.

It is time for the Senate to pass the flag protection amendment—an amendment that has overwhelming bipartisan support and 59 cosponsors. The House passed this amendment last year by two-third majority. Now it is time for the Senate to pass this amendment so that we can send it to States and give the American people a chance to vote on this very important legislation. Mr. President, I believe that protecting the symbol of our Nation is one of our duties as elected representatives of the American people, and it is too important to leave in the hands of activist judges.

Mr. JOHNSON. Mr. President, today I share with my colleagues my thoughts on S.J. Res. 12 to amend the Constitution of the United States to prohibit the physical desecration of the flag of the United States. There are good, thoughtful, and patriotic Americans on both sides of this contentious issue. I have great respect for the views of many that amendment would constitute an unnecessary and harmful interference with the first amendment guarantees of free speech. Nonetheless, I am a supporter of S.J Res. 12. For most of America's history, flag desecration has been illegal under State law and local ordinances. This constitutional amendment allows the return of the law to its former state, and I support this amendment to ensure those protections.

Mr. McCONNELL. Mr. President, whether flying on an aircraft carrier, hanging in one of our Embassies, or worn as a patch on a soldier's uniform, the American flag stands for freedom.

The vast majority of Americans honor the flag, and rightly so. Some would go so far as to amend the Constitution to protect the flag against those who would burn it. While I share and admire their patriotism, weakening the first amendment, even for the noble purpose of protecting the flag, is not a position I can support.

Make no mistake I treasure the Stars and Stripes as much as any American. One of my most prized possessions is the flag which honored my father's military service in World War II. It was draped upon his coffin after his death from cancer in 1990. He fought in the European theater to protect the freedoms that flag represents, and it now rests proudly on the mantle in my Senate office.

I do not have any sympathy for any who would dare desecrate the flag. They demean the service of millions of Americans, including my father and the brave men and women currently fighting the war on terror. They deserve rebuke and condemnation.

There may be no greater symbol of freedom than the flag. Its powerful symbolism is precisely why miscreants choose to desecrate it to make their point. They intend to convey a powerful message, and they have succeeded, because we find their message so disgusting that proponents of S.J. Res. 12 seek to ban their message. But freedom of speech means nothing unless people are allowed to express views that are offensive and repugnant to others.

Over 60 years ago, Justice Jackson noted how much the flag means to all Americans, and at the same time argued that the principles of liberty require us to allow others to view the flag differently than we see it ourselves. He wrote that:

> The case is made difficult not because the principles of its decision are obscure but because the flag involved is our own . . . But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom.

Since our founding, we have watched other nations silence dissent, while America welcomed it—and America has prevailed. In fact, the Senate has seen free and open debate this week about the flag resolution. Those who support the resolution have made their best arguments to try to convince those who disagree. Regardless of the outcome of the vote on this measure, this week's debate is good for democracy and good for America.

Free and open debate is also the correct approach to use in dealing with those who desecrate the flag. The Supreme Court has recognized that ''[t]he way to preserve the flag's special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong.''

Flag burning is an abominable act. We are lucky to live in a country where the overwhelming majority of people not only reject it, but honor the American flag and the freedoms it stands for. These freedoms are America's source of strength, whether embodied in the first amendment's protection of speech, or the second amendment's protection of the right to bear arms, or the fifth amendment's protection of private property, or in any other provision of our enduring Constitution.

Ultimately, people who use the flag to convey a message of protest pose little harm to our country. But weakening our first amendment freedoms might.

Our Founding Fathers wrote the first amendment because they believed that, even with all the excesses and offenses that freedom of speech would undoubtedly allow, truth and reason would triumph in the end. And they believed the answer to offensive speech was not to regulate it, but to counter it with more speech, and in so doing, let the truth prevail in the marketplace of ideas.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator's time has expired.

The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee amendment be agreed to and that the following amendment be the only amendment in order to the pending joint resolution, S.J. Res. 12: Durbin first-degree amendment relating to statutory language. I further ask consent that all debate be equally divided between the two leaders or their designees until 5:30; and further, at that time the Senate proceed to a vote in relation to the Durbin amendment; further that the resolution then be read a third time and the Senate proceed to a vote on passage of S.J. Res. 12, as amended, with no further intervening action or debate; provided further that if all 100 Senators fail to vote on final passage, then the vote be reconsidered and the Senate vote again on final passage on Thursday, June 29, at a time determined by the two leaders.●

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I would further ask that the consent agreement contain the understanding that the Durbin first-degree amendment relating to statutory language be the only amendment that would be in order.

Mr. FRIST. Without objection.

The PRESIDING OFFICER. That is part of the agreement.

Mr. DURBIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. So it is clear, I will have an up-or-down vote on my amendment.

Mr. REID. At 5:30.

Mr. DURBIN. But it will be an up-or-down vote directly on the amendment; is that understood?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I would like to just clarify the unanimous consent request so that Members who are on the floor are not excluded from the debate that is going on.

Mr. REID. Senator FRIST and I will allocate the time that is left.

Mr. BUNNING. But there is time allocated presently.

Mr. FRIST. That is correct, Mr. President. Through the Chair, time has been allocated. The remainder of the time will be allocated between the two of us, and there is nothing in the unanimous consent request that will interfere with that.

Mr. BUNNING. Thank you.

The PRESIDING OFFICER. Is there objection?

The Senator from Colorado.

Mr. ALLARD. Mr. President, I think Senator KERRY had asked for some additional time, and it is cutting our time on this side. I want to make sure we restore that time we would have lost.

Mr. REID. Mr. President, I think that is very appropriate. I believe the extra time Senator KERRY took from the Republicans should be restored. It would be about 5 minutes, I think.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The committee amendment was agreed to.

Mr. FRIST. Mr. President, just briefly, on our side, because I can tell there is some confusion as to the order, I have Senator BUNNING for 10 minutes, Senator ALLARD for 7 minutes, Senator WARNER for 7 minutes, and Senator THUNE for 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise in support of S.J. Res. 12, the flag protection constitutional amendment. It is fitting for the Senate to address this issue on the eve of the Nation's most celebrated national holiday, the Fourth of July.

For over 200 years, from the time of the Revolutionary War to this very moment, the American flag has served as the most unifying and visible sign of our great Nation. It is a symbol that knows no particular political affiliation or ideology. It is a symbol that has many different meanings for many different people. And, most importantly, it is a symbol of our Nation's greatest freedom that so many men and women in our Armed Forces have and continue to sacrifice to protect.

I believe it is an insult to those sacrifices to stand idly by while the flag is desecrated. It is time to show the same honor to our flag that we do to those who have sacrificed to protect it. I believe we owe it to our Old Glory, and that is why I am here today to speak in support of the constitutional amendment to protect our flag.

This amendment is necessary to restore protections for the flag that the Supreme Court wiped away in 1989, ruling in Texas v. Johnson. In that 5-to-4 ruling, the Court set aside longstanding national and State laws that protected our flag and recognized and honored its place in American society.

Congress quickly acted in response to that ruling through the passage of the Flag Protection Act of 1989. The Supreme Court, however, was also quick to act. In another 5-to-4 decision, in 1990, the Court again found that flag protections were inconsistent with their view of the rights protected by the first amendment.

But the Court is once again out of touch with America. Its view that flag burning should be protected is not shared by many Americans. In fact, the vast majority of Americans think just the opposite. Nationwide, over 70 percent of Americans think it is important for us to pass a law to protect the flag. And in my State, that number is even higher—87 percent think that it is important that we act now to protect the flag.

It is time that we turn this issue back to the people. The Constitution provides an amending process for a reason. The bar to enact a constitutional amendment is high, requiring a two-thirds vote of both the House of Representatives and the Senate. Likewise, the amendment must be ratified by three-fourths of the States. But in the rare instance when those super-majorities can be assembled, the Framers gave us away to change the Constitution and for the people's voice to be heard. That is just what we should and must do.

Since the Supreme Court's rulings, the House of Representatives passed a flag protection amendment five times—most recently last year. The Senate has also taken up the issue, but unfortunately failed to get the necessary 67 votes. By all accounts, this time the Senate is within one vote of adopting the amendment and sending it to the States for ratification.

I have no doubt that should the Senate pass this resolution it would be ratified by the States. While this issue is currently being debated at the national level, States have been quick to show their overwhelming support for such a resolution. Since 1989, all 50 States have enacted resolutions asking Congress to pass a flag protection amendment.

Mr. President, we owe it to Old Glory to protect each and everyone of it stars and stripes.

Two weeks ago, I had the honor of introducing a man who fought to rescue Old Glory from would-be flag-burners. Rick Monday, a former center fielder for the Chicago Cubs and a Marine Corps Reservist, rescued the American flag from being burnt by two protestors during a 1976 baseball game between the Cubs and the Dodgers.

Monday was playing center field for the Cubs that day, when suddenly in the 4th inning two protesters ran onto the outfield grass carrying the American flag. These two individuals then proceeded to spread the flag on the ground, dousing it with lighter fluid and pulling out matches to light it on fire. But before they could act, Monday dashed from his position swiping the flag right out from under their noses to the sound of thunderous cheers from the crowd.

Following Monday's patriotic actions those in attendance that day burst into a chorus of God Bless America. Whether you are a player or a fan, we all have our favorite memories from America's past time, but few of those moments compare to Monday's act of patriotism. It is arguably one of the greatest moments the game has ever seen. In fact, the Baseball Hall of Fame recognized it as one of the 100 Classic Moments in the history of baseball. Monday, a true American Patriot, fought to stop what he knew was wrong in 1976 and is still wrong today.

Some may argue that burning the flag is a form of speech. I do not agree with those people. In the 1989 flag burning case Texas v. Johnson, late Chief Justice William Rehnquist said it well in his dissent when he said that flag burning is more like a grunt or roar designed to antagonize others than it is a form of speech.

Well, Mr. President, it is time that this body acted to protect Old Glory from those who wish to indulge in its desecration. We owe it to our past, present and future generations. And ultimately, we owe it to the brave men and women who sacrifice so much to protect us at home and abroad.

Each and everyone of us should recognize what a privilege it is to live under the Stars and Stripes. And like Monday, we should do everything we can to protect and honor our flag. After all, what it represents is the very reason our troops are putting their lives on the line right now in the war on terror. When you disrespect the flag you are disrespecting our men and women in uniform.

Mr. President, on the eve our Nation's most important national holiday, the Fourth of July, I urge my colleagues to protect our Nation's great flag.

I believe it is our duty as public servants to protect one of our Nation's greatest symbols of freedom—Old Glory.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I rise today, June 27, 2006, between Flag Day and Independence Day, to speak on behalf of the American flag.

The American flag is a symbol, a physical embodiment of the freedom and liberty that we as Americans are blessed to claim. More than a mere banner of red, white, and blue, our flag characterizes the fundamental essence

of what it means to be an American: liberty, justice and equality.

Whether flown at a high school football game, in an Olympic arena, or over this very building that we stand in today, the American flag is an image that commands worldwide respect, while at the time symbolizing the triumph of representative Government over the inequities of tyrannical rule.

To allow for the physical desecration of such a symbol of opportunity and liberty is not quite tantamount to condoning an assault on the very foundation of our individual freedoms, but so close as to have damaging effects. Strength in symbolism can oftentimes rely upon the extent to which an image is protected by the society it represents, which is why this is not an issue pertaining to freedom of expression, but rather an issue of patriotic reverence and national identity.

The American flag has done more than wave as a symbol of freedom; it has served as an inspiration, a guiding light to our men and women in uniform throughout our Nation's history.

On New Year's Eve, 1776, just 7 months before the signing of our Declaration of Independence, George Washington and the Continental Army were laying siege to the British-occupied Boston. In the midst of battle, Washington recognized the need to present a unifying symbol to his own troops, as well as the need to commemorate the birth of our truly unique sense of American pride. Inspired with the fortitude of his continental troops, Washington ordered the hoisting of the Grand Union flag. This was one of the first instances where our flag became more than a symbol of independence, but the physical representation of an ideal stemming from the innate human desire for freedom.

On June 14, 1777, almost a year-and-a-half after George Washington raised the Grand Union flag over Prospect Hill, the Continental Congress passed an act that officially gave America a flag. Though the intricacies of the design have changed several times in our nation's history, the principles that it represents have never faded.

Patrick Henry aptly summed up this uniquely American commitment to personal liberty by stating, ''I know not what course others may take but as for me; give me liberty or give me death.'' President Calvin Coolidge once commented, ''We do honor to the stars and stripes as the emblem of our country and the symbol of all that our patriotism means.'' Henry and Coolidge spoke of a liberty that was fought for, and won by the sacrifice of thousands of our American sons and daughters. As it stands today, the American flag is a monument to their heroic effort, and a testament to the price those serving our country are willing to pay for our freedom.

With the 230th birthday of our Nation fast approaching, we will undoubtedly see even more American flags on display in front yards, on top of skyscrapers, and in the hands of people celebrating the birth of our Nation. While many of these patriotic displays will coincide with the festivities of this national holiday weekend, the unifying message behind every one of these flags is that we as Americans understand the power behind our national symbol.

It is time that we, as the Nation's legislature, restored the ability of the America people to protect the flag as the symbol of our country. This ability has been eroded over the years by judicial decisions that have stripped away the people's right to protect the American flag and all that it stands to represent.

This sentiment has garnered wide support across the Nation, as is evidenced by all 50 states passing resolutions calling upon Congress to enact some constitutional protections for the flag. In each of the past five Congresses, the House has passed a constitutional amendment designed to protect the flag from all forms of desecration, with the latest measure passing almost a year ago by a vote of 286 to 130. Here in the Senate, we came up only 4 votes short of the required two-thirds majority in 2000.

Today, we stand closer than ever to passing this vital constitutional provision. Some of my colleagues have expressed concerns regarding the potential first amendment ramifications of passing this initiative. First of all, this amendment does not ban anything. It simply restores the authority of Congress, the representatives of the American people, to pass a flag desecration statute if it chooses.

Second, even if such a statute were subsequently passed, it would not place a restriction on the content of the speech, only on the means by which the speaker wishes to communicate. Someone seeking to burn the flag would still retain their right to express any political viewpoint they wish to advance. They would, however, not have the ability to desecrate the flag as a substitute for other forms of expressive conduct.

This is why the resolution was reported out of the Judiciary Committee with broad support originating from both sides of the aisle. This bipartisan support is evidence that this issue transcends all political ideology; and to me, this unity could not have come at a more critical moment in history.

Internationally, our enemies have consistently used the desecration and burning of our flag to symbolize plight of international democracy at the hands of Islamist tyranny. Domestically, Americans are daily assaulted with media images of home-grown extremists groups burning the American flag in an attempt to speak out against the actions of their Government. The irony, however, is not lost on the American people when they see these political ideologues desecrate the very symbol that gives them the right to speak in the first place.

This tendency to overshadow our flag's positive symbolism with negative contextual imagery is the reason why the majority of Americans support this amendment. We understand the power of this national symbol, believe in the principles that our flag represents, and we know that past generations have fought and died to ensure that those principles resonate well into the future.

I ask the Senate to stand in unity with the American people and the 50 states and ask them to not let this opportunity pass us by without acting to protect this still vibrant national symbol.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe at this time I am scheduled. Does the Senator from Pennsylvania have control of the time?

Mr. SPECTER. Yes.

Mr. WARNER. I will take a few minutes.

Mr. President, I was completing my luncheon and walking through the hallway back to my office when a reporter in a very respectful way spoke with me and asked how I intended to vote on this amendment.

I said I intended to vote as I have done three previous times; basically to support it, the other options.

He said: What is the driving force? Is it your highest priority? And he asked a series of questions in a very polite way which really said: Stop and think what it is I am about to do and why I am about to do it.

I gave him a reply which follows along these lines: I listened to the distinguished Senator from Pennsylvania yesterday referring with a deep sense of emotional pride about how his family had proudly worn the uniform of our country, and most particularly his father who was in the great Army that went over in 1917–1918 to save Europe, in World War I, and how he was severely wounded in the Battle of the Argonne.

I checked my own father's record. I, of course, have it proudly on the wall in my Senate office. He served in World War I. He was engaged in several major battles. He was a doctor in the trenches and cared for the wounded. He was in the Battle of the Argonne. How do we know perhaps my father rendered medical assistance to Senator SPECTER's father. But those things are instilled in sons and daughters by their parents.

When it came time for me to proudly raise my right arm and volunteer in World War II, I did so because of my father and how proud he was, as was my mother, who, incidentally, was with the American Red Cross in World War I tending to the wounded in the hospitals in the United States.

In my father's library in which I grew up as a small boy, there were remnants and artifacts that he brought back from France from the 1917–1918 experiences. I remember a small American flag, his helmet, his old belt, and

several other artifacts, and how he and my brother and I treasured them as young persons.

My military service is of no great consequence. I did have the opportunity for a short period in the final year of the war to go through the training command, but I remember very well I was then just in the training part of it—I think, out of boot camp or perhaps in boot camp—seeing that flag raised on Iwo Jima. We didn't know at that time in February-March of 1945 how long that war was going to last. We had no idea. We just experienced the Battle of the Bulge in which the final thrust of the German forces trapped so many of our soldiers with unexpected casualties in the 40,000s in that battle and now Iwo Jima, some 17,000 I think killed, wounded, and missing in that battle for about 5 weeks.

I remember the picture of that flag going up. Now we see it on the monuments out here which the Marines revere so deeply.

That was one of the reasons I later joined the Marine Corps and served for another period on active duty, this time in Korea as a young officer with the Marines. There was no particular valorous service, just like many others. You raised your arm and did what you were told to do and thanked God you got home in one piece. That is what we were all glad to do.

So I am very humble about what little active service I had. But I have had the privilege of being associated with the men and women of the Armed Forces for over a half century, now in this Chamber serving with others, again, 28 years on the Senate Armed Services Committee doing everything we can for the men and women of the Armed Forces.

So I told this reporter that I felt I had a duty to those who had worn the uniform of our country so proudly in these many years that I was privileged to be associated and learn from them and profit from them and my experience in the military.

It has been a great, wonderful opportunity for me to have this service in the Senate and have as a part of it the responsibilities. So I thought I would recount some statistics.

In World War I, the conflict in which our fathers served, I say to Senator SPECTER, 116,000 killed, 204,000 wounded; World War II, 405,000 killed, 671,000 wounded; Korea, 54,000 killed, 103,000 wounded; Vietnam, 58,000 killed, 153,000 wounded; Desert Storm, that is the first engagement with Saddam Hussein's forces, 382 killed, 467 wounded; Afghanistan, 291 killed, 750 wounded; the second battle with Saddam Hussein, Iraqi Freedom, 2,521 killed, over 18,000 wounded.

Most, if not all, of those brave men, and I expect some women—I fully anticipate women were included—came back to their beloved country from those foreign lands and at some point before they were finally put into Mother Earth an American flag was put on that casket. There is not a one of us in this Chamber who has not had the privilege to go to those services. There is not a one of us whose throat hasn't swelled or whose eyes haven't welled up when that takes place.

So, Mr. President, that flag symbolizes the everlasting—I repeat everlasting—gratitude of the citizens of this great Nation for that giving of a life in the cause of freedom. I could do no less than proudly stand here and vote ''aye'' for this amendment, as I shall do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I rise today as well to voice my strong support for a constitutional amendment that would allow Congress to prohibit the desecration of the American flag.

Some of the opponents have spoken today about how important it is that we not use this opportunity to amend the Constitution. The Senator from Illinois referred to the constitutional language, the constitutional sacred language, and question how we could alter what Thomas Jefferson and our Founding Fathers wrote.

I simply point out that in the last 20 years, our colleagues on the other side have on over 100 occasions introduced constitutional amendments. In fact, there was one by the Senator from Illinois a few years back that would abolish the electoral college.

So the question isn't whether we amend the Constitution for this purpose. It seems to me at least the question that has been raised about the Constitution comes down to one's preference for which amendments are in order and which are not.

I have to say that I think an amendment to protect the American flag is in order, not just because it shares a majority and a strong bipartisan support in the Senate but because many of the people who were just alluded to by the Senator from Virginia who have fought and died on behalf of that flag want to see this flag honored.

Look at the veterans organizations in this country—the American Legion, the Veterans of Foreign Wars. Veterans organizations are very much in favor of this amendment. In fact, it has been one of their top priorities. The American Legion for some time now has been trying to get an amendment to the Constitution that would allow Congress to enact laws that would protect the American flag.

As a member of the Veterans Affairs Committee, I heard from many veterans on this issue who understandably feel strongly about this flag and rightly view desecration of the flag as an afront.

Many of our veterans have stood in harm's way around the world to protect everything our flag represents. That is why it is a unifying symbol that deserves to be protected from desecration.

The proposed amendment is simple. It says:

> The Congress shall have power to prohibit the physical desecration of the flag of the United States.

It does not amend the first amendment. It simply authorizes Congress to pass a law to protect the flag from desecration.

This amendment, as I said earlier, has overwhelming bipartisan support. Members on both sides of the aisle feel strongly that this flag should be protected.

Our flag is intertwined with some of the most memorable scene's from our Nation's history. It was raised at Mt. Suribachi during the battle for Iwo Jima, and draped over the side of the stricken Pentagon on September 11. It is what Olympic gold medalists are honored with. It brings comfort to the wife of a fallen soldier. Young schoolchildren pledge their allegiance to our flag. Above all, it symbolizes the freedoms we hold dear, and I believe it should be protected from falling victim when those freedoms are exploited.

Since the birth of our Nation, American soldiers have fought for the ideals our flag represents and look to it for direction and promise on bloody battlefields. The effort we are making here is not something of small consequence. It is an opportunity to debate an issue of critical importance to the American people and to allow the voice of the people to be heard on this critical issue.

I am not a lawyer and most Americans are not lawyers, yet the vast majority of Americans know instinctively that the American flag is something that needs to be protected from desecration. However, right now five unelected lawyers on the Court have decided that desecration of the flag deserves the protection of the first amendment. Five unelected Justices on the Supreme Court decided that Federal and State laws prohibiting flag desecration were unconstitutional. Many of these statutes had stood for generations before these Justices determined that these statutes were unconstitutional.

In fact, four Justices on the Supreme Court completely disagreed with the majority opinion in the flag-burning cases. In fact, Justice Stevens, perhaps one of the most liberal Justices on the Court, wrote a dissenting opinion saying that desecrating the flag is offensive conduct, not speech that deserves protection.

Our Constitution does not belong to the courts. It belongs to the people. And when the courts get it wrong, it is appropriate the people have an opportunity to correct it. In this case, I believe the opinion of the four Justices ought to be the majority opinion, as do the vast majority of the American people. If two-thirds of the Senate, two-thirds of the House of Representatives,

and three-fourths of the State legislatures also believe it should be the majority opinion, then that is a constitutional basis for making it a majority opinion.

The notion that flag desecration is a nonexistent problem is also not factual. As Senator HATCH has noted earlier, there have been several incidents of flag desecration just in the last year, and these are the occasions that were published in the media. They are the ones that we know about.

The House of Representatives has passed this amendment with the required two-thirds majority in each of the past five Congresses, but it has always been bottled up here in the Senate. The Senate last voted on this amendment in the year 2000 when it drew 63 votes. That is a lot of votes, but it is still 4 votes short of the 67 that are needed to pass. This time around, it appears that we are very close to passing this amendment.

Mr. President, I hope my colleagues who are listening to this debate will ultimately come down in favor of supporting what is a very simple, straightforward approach which simply says that Congress shall have the power to prohibit the physical desecration of the flag of the United States. It puts the power in the hands of the Congress—the elected representatives of the people of this country—and the people who ultimately will have the opportunity in the 38 States if this thing is approved here today, with the 67 votes that are necessary to vote on its passage.

So I stand proudly today in support of those veteran organizations who have spoken loudly on this issue—those who have sacrificed and who believe that the American flag is not just ink and cloth, but is a symbol of our freedom, a symbol of our democracy, and it is something that the majority of Americans and those who have served this country and fought to protect it deserve to have protected.

Mr. President, I yield the remainder of my time.

Mr. DURBIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Democrats have 35 minutes remaining.

Mr. DURBIN. And the other side?

The PRESIDING OFFICER. The other side has 9 minutes.

Mr. DURBIN. I yield 15 minutes to the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my distinguished friend from Illinois.

We are here today, once again, to debate the wisdom of amending the United States Constitution, to outlaw the desecration of the American flag. As I have stated repeatedly and sincerely over the years, there are few acts more deeply offensive to any of us than the willful destruction of that American flag which stands there beside the President's desk.

The flag is a symbol of our Republic. It is a unique symbol of national unity and a powerful source of America's pride. I love the flag. We all love the flag and all that it represents. We revere the flag because it is a symbol of the liberties that we enjoy as American citizens. These are liberties that are protected by the Constitution of the United States and the Bill of Rights. The Constitution is the instrument that provides for what that flag represents.

Now, let me say that again. This Constitution that I hold in my hand is the instrument—there it is—that provides for what that flag represents. It is the Constitution that has been and continues to be the source—the source—of our freedom. We celebrate our freedom every time we pledge allegiance to the flag, every day that this Chamber comes to order and conducts a session. So we pledge allegiance to that flag and to the Republic—not to the democracy but to the Republic—for which it stands; one Nation, one Nation under God—yes, under God—indivisible, with liberty and justice for all. Think of that. Listen to that. One Nation under God, indivisible, with liberty and justice for all.

Seven years ago, in contemplation of a similar moment when the Senate was confronted with a constitutional amendment banning flag desecration, I spent long hours contemplating both the legal bases and the need for such an amendment. I said at that time, and I say again today, that I know of few subjects that have come before the Senate which have caused me greater anguish and consternation. I knew 7 years ago, and I know today, that many West Virginians, many of my colleagues, many of the people I represent support this amendment. But based on my continued examination of the matter, I believe that I must remain—and I shall remain—opposed to that amendment.

I oppose it not because I do not love the flag because I do love the flag. I oppose it not because I fail to respect the sacrifices made by our veterans, our law enforcement officials, and our first responders who, for the benefit of all Americans, have given their lives and who have offered their lives in defense of our country and our flag because I do. Instead, I oppose it because while I agree that desecration of the flag is abhorrent, repugnant, I believe that amending the Constitution to prohibit flag desecration flies in the face—the very face—of first amendment rights like freedom of speech. Men and women have died to protect that freedom of speech, that freedom to express ourselves.

Flag desecration remains a rare and isolated event in this large country of ours. The vast majority, the overwhelming majority of Americans respect the flag and they fly it with pride. They do not abuse it.

The Senate Judiciary Committee has not held one hearing on this proposal. Let me say that again. The Senate Judiciary Committee has not held one hearing on this proposal. It is especially troubling to me that the Senate would seek to amend the Constitution—yes, this Constitution that I hold in my hand—and the first amendment—without holding even a single hearing on the need for this amendment.

Now, I know that some who favor this amendment believe that the burning of the flag is sufficient to justify the adoption of this extraordinary—I say extraordinary—legislative remedy. And I, too, cringe, I shrink from, and I condemn any desecration of the flag. But I do not agree that it is necessary to amend the basic document, the basic organic document, the Constitution, to prohibit it.

Furthermore, this constitutional amendment provides no actual punishment of those who desecrate the flag. Plus, if protection of the flag is a pressing concern—and I acknowledge that to many people it is—why do the backers of the constitutional amendment not support pending legislation, of which I am a cosponsor, which could be enacted to prohibit desecration of the flag more quickly? As we all know, a constitutional amendment requires ratification by three-fourths—three-fourths—of all 50 States, which could take up to 7 years, and it is likely that additional legislation to enforce the enactment would have to be enacted after that.

I also would not support this constitutional amendment because it continues to be my heartfelt belief—and I wish I were mistaken—that the primary effect of the amendment will be to create more, rather than fewer, incidents of flag desecration, flag destruction. Zealous defenders of the first amendment who are offended, rightly or wrongly, by the passage of this amendment will surely cast themselves in a new role; namely, as provocateurs who, newly inspired, will deliberately seek to test the boundaries established by this proposed amendment if it is adopted.

This is more than a matter of symbolism; this is a question of respect, respect for the founding document of the Republic—oh, how precious it is, this founding document, the Constitution of the United States, the supreme law—the supreme law of the land. Any disrespect for the Constitution is a repudiation of the basic principles and laws of our country. I do not relish giving a tiny minority of troublemakers the ammunition to denigrate—yes, denigrate not only the flag but also the Constitution of the United States.

As I have stated repeatedly, this does not mean that I believe destruction of the flag is trivial or that encouraging reverence for the flag is not an important goal of our government. I simply do not believe that sporadic instances of flag burning should result in our advocating the course of amending the Constitution, amending the basic organic document on which this Republic was built and on which it stands, as a remedy. As I have recounted in prior speeches on this subject, the Constitutional Convention in 1787 debated in

much depth whether there should be any—whether there should be any—provision for amending the Constitution. Recognizing, however, that occasional revisions might be necessary—and thank God they recognized that occasional revisions might be necessary—the Convention finally agreed upon a compromise that deliberately made it difficult to amend the Constitution by requiring successive supermajorities. To that end, article V of the Constitution sets up a cumbersome troublesome, two-step process to amend the Constitution.

The first step is approval either by two-thirds of Congress, or—and this has never been done—by a convention called for by two-thirds of the States. The second step is ratification by three-fourths of the States.

So given the hurdles that were deliberately and knowingly and intentionally established by article V, it is no surprise that so few amendments to the Constitution have been approved. There are 27 amendments in all that have been approved, and the first 10 of the 27 were ratified en bloc in 1791. Those 10 constitute our Bill of Rights.

Think of it: In the 216 years that have subsequently ensued, there have been just 17 additional amendments. If we disregard the 18th and the 21st amendments, marking the beginning and end of Prohibition, then we are left with only 15 amendments in 216 years. Get that. Only 15 amendments in 216 years. As I have advised my colleagues before, and as they well know, these 15 amendments can generally be divided into two roughly equal categories. One category consists of those amendments that deal with the structure—the structure and the organization of the three branches of Government—the legislative, the executive, and the judiciary.

These include the 11th amendment, preventing the Federal courts from hearing suits against States by citizens of other States; the 12th amendment, regarding the election of the President and Vice President; the 17th amendment, establishing the direct election of Senators; the 20th amendment, regulating Presidential terms and related matters; the 22nd amendment, limiting the President to two terms; the 25th amendment, regarding Presidential succession; and the 27th amendment, deferring congressional pay raises until after an intervening election.

There is little need to justify the inclusion of these provisions in the Constitution; however we may feel about them personally, their subject matter—namely the structure of the Federal Government—fits perfecly within that of Articles I through IV.

The second category of constitutional amendments consists of those that narrow the powers of government and expand or protect fundamental personal rights. These include the 13th amendment, banning slavery; the 14th amendment, which extended citizenship to all persons ''born or naturalized in the United States, and subject to the jurisdiction thereof'' and guaranteed all citizens certain basic protections; and the 15th, 19th, 23rd, 24th and 26th amendments, each of which extended the vote to new groups of citizens.

Clearly, the flag desecration amendment goes in a new direction. For constitutional purposes, as I have said before in these debates, it is neither fish nor fowl. It does not address a structural concern; it does not deal with Federal relations between the national and State governments; it extends, rather than narrows, the powers of government and it is antithetical to the whole thrust of the Constitution; and it does not protect a basic civil right. Indeed, many opponents of the amendment argue that it restricts personal liberty, namely the right of freedom of expression.

The 13th amendment forbidding slavery may be viewed as the only other amendment regulating the conduct of individuals. The 13th amendment was the product of a bitter, fiercely contested civil war, and it was necessary to end one of the most loathsome and shameful institutions in our Nation's history. This was an exceptional amendment necessitated by exceptional circumstances.

I have introduced a resolution in support of a constitutional amendment protecting voluntary prayer in school. This is also an exceptional amendment required by exceptional circumstances. Although the Supreme Court has never expressly prohibited children from voluntarily praying in school, children are discouraged from praying in school. School administrators are loathe to address the issue for fear they will be assailed, wrongly, for having broken the law. Confusion regarding the legal posture of voluntary prayer in school has created an impermissible, exceptional circumstance which, I believe, must be addressed in a way that permits school children to pray voluntarily as they deem appropriate. Consequently, I have proposed this year, as I have numerous times over the past 40 years, a constitutional amendment that simply clarifies that the first amendment neither requires nor prohibits voluntary prayer in school. This amendment would address the exceptional circumstances that afflict thousands of school children, nationwide, who mistakenly believe that prayer should not be a part of their daily lives at school.

In the final analysis, it is the Constitution that is the foundation and guarantor of the people's liberties, protecting their rights to freedom of speech and to worship as they please. The flag represents all of the cherished liberties which we as Americans enjoy—liberties explicitly protected by the text of the U.S. Constitution and the Bill of Rights. The flag is a symbol of all that we hold near and dear, and of our Nation's history. It is also a symbol of our Constitutional values. The flag lives only because the Constitution lives. Yet, as I have said in past debates on this issue, the Constitution, unlike the flag, is not a symbol; it is the thing itself. I think it might be well if, in addition to focusing on efforts to protect the flag against injury, injury which, though reprehensible, does not damage Constitutional principles, we make a greater commitment to learning the historical context of our flag as well as the actual text and meaning of the United States Constitution.

I do not believe that Americans can participate meaningfully in their government if they do not know the legal foundation and principles upon which it is based. I believe that greater familiarity with the provisions of the Constitution would give all Americans not only an enhanced appreciation of the flag as being a symbol of the liberties that are enshrined in the Constitution and the Bill of Rights, but also a literal understanding of our Government's checks and balances, their purposes, and of the duties of each of our three branches of Government to protect our personal freedoms.

Finally, Old Glory lives because the Constitution lives, without which there would be no American Republic, there would be no American liberty, and there would be no American flag. We love that flag. But we must love the guarantees of the Constitution more. For the Constitution is not just a symbol; it is, as I say, the thing itself.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Illinois.

Mr. DURBIN. How much time is remaining on this side?

The PRESIDING OFFICER. The majority has 9 minutes; there remains 15½ minutes on the Democratic side.

Mr. DURBIN. I yield 5 minutes, at this time, to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Will the Chair let me know when there is 30 seconds left, please?

The PRESIDING OFFICER. I will do that.

Mr. DURBIN. If the Senator will withhold for a moment?

Mr. KENNEDY. Yes.

AMENDMENT NO. 4543

Mr. DURBIN. I have an amendment at the desk. I call up amendment 4543.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mrs. CLINTON, Mr. BENNETT, and Mr. BINGAMAN, proposes an amendment numbered 4543.

Mr. DURBIN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide a complete substitute)

On page 2, line 2, strike ''(two'' and all that follows and insert the following:

SECTION 1. FLAG PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Flag Protection Act of 2006''.

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(B) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(C) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(D) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the Constitution.

(2) PURPOSE.—The purpose of this section is to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

(c) PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.—

(1) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

"§ 700. Incitement; damage or destruction of property involving the flag of the United States

''(a) DEFINITION OF FLAG OF THE UNITED STATES.—In this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

''(b) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and under circumstances in which the person knows that it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

''(c) FLAG BURNING.—Any person who shall intentionally threaten or intimidate any person or group of persons by burning, or causing to be burned, a flag of the United States shall be fined not more than $100,000, imprisoned for not more than 1 year, or both.

''(d) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

''(e) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

''(f) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory, or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The chapter analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following:

''700. Incitement; damage or destruction of property involving the flag of the United States.''.

(d) SEVERABILITY.—If any provision of this section, or the application of such a provision to any person or circumstance, is held to be unconstitutional, the remainder of the section, and the application of this section to any other person or circumstance, shall not be affected by such holding.

SEC. 2. RESPECT FOR THE FUNERALS OF FALLEN HEROES.

(a) SHORT TITLE.—This section may be cited as the ''Respect for the Funerals of Fallen Heroes Act of 2006''.

(b) IN GENERAL.—Section 1387 of title 18, United States Code, is amended to read as follows:

"§ 1387. Prohibition on demonstrations at funerals of members or former members of the Armed Forces

''(a) IN GENERAL.—It shall be unlawful for any person to engage in a demonstration during the period beginning 60 minutes before and ending 60 minutes after the funeral of a member or former member of the Armed Forces, any part of which demonstration—

''(1)(A) takes place within the boundaries of the location of such funeral and such location is not a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery; or

''(B) takes place on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery and the demonstration has not been approved by the cemetery superintendent or the director of the property on which the cemetery is located;

''(2)(A) takes place within 150 feet of the point of the intersection between—

''(i) the boundary of the location of such funeral; and

''(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

''(B) includes, as part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral of a member or former member of the Armed Forces; or

''(3) is within 300 feet of the boundary of the location of such funeral and impedes the access to or egress from such location.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

''(c) DEFINITIONS.—In this section:

''(1) The term 'Armed Forces' has the meaning given the term in section 101 of title 10.

''(2) The term 'funeral of a member or former member of the Armed Forces' means any ceremony, procession, or memorial service held in connection with the burial or cremation of a member or former member of the Armed Forces.

''(3) The term 'demonstration' includes—

''(A) any picketing or similar conduct;

''(B) any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony;

''(C) the display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony; and

''(D) the distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony.

''(4) The term 'boundary of the location', with respect to a funeral of a member or former member of the Armed Forces, means—

''(A) in the case of a funeral of a member or former member of the Armed Forces that is held at a cemetery, the property line of the cemetery;

''(B) in the case of a funeral of a member or former member of the Armed Forces that is held at a mortuary, the property line of the mortuary;

''(C) in the case of a funeral of a member or former member of the Armed Forces that is held at a house of worship, the property line of the house of worship; and

''(D) in the case of a funeral of a member or former member of the Armed Forces that is held at any other kind of location, the reasonable property line of that location.''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 67 of such title is amended by striking the item relating to section 1387 and inserting the following new item:

''1387. Prohibition on demonstrations at funerals of members or former members of the Armed Forces.''.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Bill of Rights is our Nation's greatest accomplishment. It has been our great fortress against the passions and politics of every era. It has been our great beacon to the rest of the world, demonstrating that we value our liberty more deeply than power or riches. And it is fitting that such a document, which describes the rights inherent to a free people, has not been amended—not once—in its entire 217 years.

The Founders knew that the first amendment of the Bill of Rights would allow all manner of speech, including some speech that was contemptible. They were no strangers to fiery rhetoric. Most of them began their public lives not only by making speeches but by engaging in other expressive conduct, such as hanging King George's tax collectors in effigy and dumping tea into Boston Harbor. The breadth of the first amendment is not an accident; it is an essential part of the Founders' design.

For the 217 years that followed the adoption of the Bill of Rights, we have managed to preserve every word. Every generation of leaders—until today—considered the Bill of Rights to be sacred and recognized that they could not claim to be protecting our freedoms by curtailing them. And the past 217 years have proved that we can survive civil wars and world wars, fascism, communism, economic collapse and all manner of civil strife—all without diluting the Bill of Rights.

So why are we addressing flag burning? I completely agree that flag burning is a contemptible and malicious act, calculated to outrage rather than persuade. But flag burning occurs infrequently and can usually be punished

under existing laws. We are being asked to undermine the foundation of our democracy in order to squash a gnat.

We might be forgiven for focusing on this small problem if we were not inundated with great ones.

If the Senate wants to improve our Nation, why don't we turn today to legislation that would reduce the vast numbers of children who go to bed hungry each night?

If the Senate wants to prevent despicable behavior, why don't we hold comprehensive hearings on the billions of tax dollars that have been stolen and squandered by companies hired to rebuild Iraq?

If the Senate wants to keep faith with our veterans, why don't we leave the Constitution alone and work to improve our VA hospitals?

The inescapable answer is that our Republican leaders' priorities are being driven by election year politics. But this is even more than a case of misplaced priorities. It is playing politics with our most fundamental freedom. Doing so opens up a Pandora's box, and if our cherished Bill of Rights is further diluted by future generations, that loss of liberty will trace its heritage to this Senate.

Let me end with the words of our national anthem, the ''Star Spangled Banner''. As every schoolchild knows, the first stanza ends with these words:

O say does that star spangled banner yet wave
O'er the land of the free and the home of the brave?

This amendment may protect our star spangled banner, but that flag will wave over a land that is a little less free and a little less brave. I urge this Senate to find the courage to leave the Bill of Rights intact.

I yield the remainder of my time.

Mr. DURBIN. How much time do we have?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. DURBIN. I ask unanimous consent that we extend the time for debate 5 minutes on each side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I would like to recognize the Senator from New York for 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I am proud to stand here today and speak out for protecting the American flag and the Constitution, of which our flag is a revered and honored symbol. Whenever I see the flag of our country, I am reminded of how fortunate I am to have been born an American, born into a country that, at her best, nurtures our strengths and gives each of us the freedom to express our ideas, display our talents, and become the best we can be, to live up to our God-given potential.

That is what the flag means to me. It represents the best of us—our ideals, our sense of duty and sacrifice: the American spirit. Those values transcend party, ethnicity, age, race, gender. Indeed, those values transcend even nationality. Around the world, our flag is a symbol of hope and freedom.

I understand the outrage that is expressed today by my colleagues, and I agree wholeheartedly that maliciously burning or destroying an American flag is a deeply offensive and despicable act. It disrespects our Nation. It belittles the sacrifices of our brave veterans. It even sends a message to the soldiers who fight today protecting our freedom that their service is in some way to be disrespected and discounted.

I have met with many veterans over the last many years, and I have heard the sense of betrayal that comes from those who risked their lives under that flag to protect our freedoms. That is why I support Federal legislation like the Durbin-Bennett amendment. When we think of all the flag symbolizes, I urge that we consider the very freedom and liberty the flag embodies. It is, in effect, a visual symbol of our Constitution and particularly our Bill of Rights. Our Founding Fathers were keenly aware that if the Constitution was to remain the cornerstone of our Government and laws, then changing it should be difficult. That is the system they set up.

The infrequency of amendments in our long history is telling. Constitutional amendments have historically met two sets of objectives. The first deals with the structure of our Government and the relationship between the executive, legislative, and judiciary branches—our system of checks and balances. The second protects fundamental rights, including the 13th amendment that bans slavery and the 15th, 19th, 23rd, 24th, and 26th amendments, all of which expanded the right to vote.

The amendment we debate today meets neither of these compelling objectives. The Constitution to which we all have sworn an oath is about protecting our rights. I believe we do that by honoring the Constitution, which has never been amended to deny or limit the Bill of Rights. I don't think we should start doing that today.

Fortunately, we have an opportunity to protect our flag in a bipartisan and constitutional way. Senator DURBIN's amendment, the Flag Protection Act of 2006, which I am cosponsoring, would among other things prohibit people from destroying a flag with the intent of inciting imminent violence, threatening someone by burning a flag, damaging a flag owned by the United States and damaging a flag that belongs to another while on Federal land.

I believe, as do many legal scholars, this legislation will stand up to constitutional scrutiny. It is different from previous bills that have been voted on in this Chamber before.

It adds a new provision that follows Supreme Court precedent, from the case Virginia v. Black decided in 2003. In that case, the Supreme Court held that the Government may prohibit people from burning crosses with the intent to intimidate. That should be a pretty straightforward proposition, but it was called into question. So the case made its way to the Supreme Court. The Court concluded that laws may, in fact, ban cross burnings meant to intimidate ''because burning a cross is a particularly virulent form of intimidation.''

Burning a flag, to me, is also despicable, and I believe that there is no denying that when we talk about our flag, Americans' emotions run deep. We know when we look at a flag that is deliberately, maliciously destroyed, that is an intimidating experience in many instances.

I agree that this burning, this desecration that can happen to our flag, is something that people have a right to ask this body to try to prohibit and prevent.

I hope we can pass a law that criminalizes flag burning and desecration that is constitutional and can survive Supreme Court scrutiny.

I appreciate all the New Yorkers, especially the veterans whom I represent, many of whom have come to see me here and in my State. They expressed feelings both pro and con. I assure them that I will join with my colleagues to stand up for their needs and to stand up for the needs of those young men and women wearing the uniform today.

For those reasons, I am a proud cosponsor of Senator DURBIN's amendment, and I hope that we can come together and pass a constitutional law that protects our flag and reaffirms our commitment to our Nation's Constitution.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, it is an honor and a privilege to stand with my fellow cosponsors in support of S.J. Res. 12, an amendment designed not merely to protect the physical integrity of the American flag but the very heart of our democratic republic. From 1776 to today, from the Marines who fought their way to plant the flag at the top of Iwo Jima to the firefighters who lifted the flag above the ruins of the World Trade Center, it is clear that ''Old Glory'' represents so much more than a nation. In truth, the American flag represents thousands of years of struggle in human history to achieve political liberty, religious autonomy, and freedom from want. More important, our flag represents the inspiration of the life of our Nation and what humanity has the potential to accomplish.

Throughout our Nation's history, the American flag has enjoyed the protection not only of its people but its laws.

Unfortunately, this safeguard was eroded in 1989 by the Supreme Court decision in Texas vs. Johnson. This decision, which many of my colleagues and I agree was misguided, found within the Constitution a right that had never before existed: the right to physically assault the flag under the First Amendment. Since then, Members of Congress have been faced with reconciling the tension between ''free speech'' and the symbolic importance of the American flag. Many have argued that this tension exists between matters of fact and matters of the heart. But in my view, protecting our flag is a matter of both.

Whether we choose to acknowledge them or not, acts of violence or desecration towards our flag have become a grave reality in our country. Since the Texas decision in 1989, there have been more than 120 reported cases of flag degradation across the United States, and this number reflects only those events that were publicized by the media. Even with that reality in mind, we must remember that the point is not how often the flag has been burned, defaced, trampled, or torn or even those responsible for such heinous acts. Rather, the point has to do with our response—especially our official response—to those events. As citizens, we can no longer allow flag burning to be considered a ''norm'' in our society. Although we can do nothing when terrorists or those with anti-American sentiments defile our flag abroad, we owe it to our brave service men and women, to ourselves, and to our children to do something when it happens on our own soil.

Prior to the Texas decision, 48 out of our 50 States had statutes prohibiting flag desecration on the books. And since 1989, support for protecting our flag has only increased. Today, as the distinguished Majority Leader, Senator FRIST, has said, an overwhelming 80 percent of the American public and all 50 State legislatures agree that the Constitution should allow States and the Federal Government to protect the flag. This is exactly what this resolution was designed to do. The amendment does not prohibit flag desecration itself, but will give Congress and democratically elected State legislatures the opportunity to deliberate and ultimately decide how they will guard the United States flag.

It is important to note that the amendment process is not something that we as citizens or Congressmen should take lightly. However, when we look back in history, it is clear that constitutional amendments have only taken effect when both citizens and legislators have joined together to demand change, after prolonged periods of social unrest. As we look forward to our Nation's birthday next week, it is clear that now is the time to put an end to this political dissension and embrace the freedom and the responsibility we inherited from our forefathers. The amendment process is a fundamental provision of the Constitution, and by making use of it, we not only reaffirm its foundation, but we reveal the virtue embedded in democracy.

Ultimately, we must remember that democracy, from 2500 years ago when originally articulated by philosophers like Aristotle, to more modern discussions about democratic nation-building in the Middle East, has always encompassed much more than a structural or institutional framework for government. Although elements such as free elections, dispersed power, basic human freedoms, equality, and an involved citizenry are important in thinking about democratic governments, the idea itself revolves around a vision. That vision acknowledges human beings are capable of securing their liberty but also establishing a free, prosperous, and ultimately, unified society. It is a vision that has inspired people everywhere, but especially Americans, with hope, optimism, and an unwavering sense of loyalty. Such a vision is best expressed in the waving stars and stripes of Old Glory.

We often warn our children ''If you can't stand for something, you'll fall for anything.'' Today, it is my hope that we will come together and agree that there is nothing we would rather stand up for than the American flag.

Let me speak specifically to a provision—the Durbin amendment—that should be troubling to all of us.

Just this past month, this body voted unanimously to support, and the President has just signed, an act called the Respect for America's Fallen Heroes Act.

The legislation that was authorized and moved out of the Veterans' Affairs Committee speaks to those who choose to demonstrate during periods in the ceremony at a cemetery in the burial of one of our fallen heroes.

This body rightfully protected those families and those mourners in certain demonstrations at the VA's 223 national cemeteries and at Arlington National Cemetery. We differed a little with the House, and the reason we differed with the House is quite clear. There were two constitutional reasons for differing with the House.

The first amendment right to assemble peacefully was one of those, and the second one was a federalism principle that I think the Senator from Illinois walks all over—that recognizes we only have the right to shape those activities on Federal property.

The Durbin amendment fails miserably to adhere to the federalism principles—the very principle that drove my amendment to the House-passed version of the Fallen Heroes Act. Therefore, I am here today to urge my colleagues to oppose the Durbin amendment on two grounds.

First of all, the courts have said we can't legislate as it relates to flag burning; secondly, we ought not be telling States what to do as it relates to private cemeteries or State cemeteries. I think that is very clear.

I said at the time we voted on the Fallen Heroes Act that I would ask that federalism be protected.

I must say in conclusion that there is no commerce nexus in what the Senator from Illinois is attempting to do. This clearly is a federalism argument. It is a State and local responsibility to protect that which the Senator from Illinois is asking us to protect.

We have already acted in defense of our fallen heroes on Federal property, as we should rightfully have done.

Mr. HATCH. Mr. President, I yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 2 minutes.

Mr. CHAMBLISS. Mr. President, we are in the midst of a debate that, frankly, I think we ought to have, and I am proud to be a cosponsor of this resolution. I share the view of the majority of Georgians that the American flag symbolizes the strong values that our country stands for—freedom, liberty and representative democracy. And most importantly, our American flag represents the generations of men and women who have fought and died defending those values. I have the privilege of representing a proud military state, and nothing makes me more proud when traveling around Georgia than to stand with the folks I represent, face our flag—place my hand over my heart—and recite the Pledge of Allegiance.

The flag represents our way of life. It hangs in our classrooms, over our police stations, fire stations, and courthouses. It flies above this historic Capitol. It was borne by troops in battle to protect our liberties and has covered the caskets of fallen soldiers, airmen, and marines who made the ultimate sacrifice for us. It is an emotional symbol to so many of us.

I have had the opportunity to travel around the world to represent my state and my country—and the one symbol that everybody in and particularly outside of America looks to when they think about America is that great flag that we have lived under for all these many years. And for anybody to think that they ought to be able to stomp on that flag, or trample that flag or burn that flag or destroy that flag in any way other than a professional way is simply wrong.

There are those who say we ought not ''change'' the Constitution. Yet, for 200 years the legislative branch of our governmental had the power under our Constitution to prohibit the desecration of the flag. Only in 1989 and 1990 did a divided Supreme Court, for the first time in our history, ''change'' the Constitution to say that Congress no longer had that power. I believe the amendment process, provided for by the Constitution itself, is the lawful means by which the American people may restore common sense when the Supreme Court abandons it.

Let me take a moment to say that I understand that a substitute has been

filed and that the substitute has in it language to prohibit protests at military funerals. The language is basically the same language as the bill that Senator BAYH and I introduced months ago.

I hope we can work together to get this bill passed as a stand-alone bill. We need to ensure that families can bury their servicemembers in the peace and dignity and respect they have earned.

I ask that a vote be made against the substitute and for the underlying resolution.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I reserve the remainder of my time.

Mr. DURBIN. Mr. President, I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I stand here proud of my country, proud of our liberties, proud of our flag. I went to Europe as a young man during World War II—the first time I was out of the country—and put on a uniform to defend the honor and freedoms that this country represents.

Now we talk about flag desecration by the actions of a few who dare burn our flag. It is a repulsive, ugly act. We never want to see it. But do we take away their right to dissent and do we say America is a country that can't stand dissent? No. One's patriotism may be another person's desecration.

Here's a picture—I show this poster not at all to denigrate the President of the United States, but that is the hand of the President of the United States using a magic marker to write on this flag. He never intended to be disrespectful; he loves this country. I differ with him on policy, but is that desecration, I ask you?

I think this second poster is another example that represents desecration. Here he is, Kid Rock, with his head through the flag. Is that a desecration? It was such a desecration that he was invited to perform in a concert at the Republican Convention, and they partied with him. They loved him.

What constitutes desecration? A lapel pin? We worry about what we do for our soldiers and say that we love the flag so much, but we won't allow news photos of flag-draped coffins coming into Dover? Pictures of those flags are banned?

What is going on here? This is politicking at its worst. We should not violate the freedoms guaranteed by our Constitution and the Bill of Rights. It is raw politics. It doesn't demonstrate patriotism. I invite everybody to have the courage to vote against this amendment and show their courage and not to be intimidated by wondering what this one will think or wondering what that one will think.

We are invited here to think about the freedoms that our country offers and our responsibility, and it is not only protecting the flag, it is protecting our liberties. It is making sure that we protect our veterans, that we give them the right kind of equipment, and that we give them the resources they need. That, to me, is the kind of patriotism that ought to be rewarded—not to say if you write in ink or you tear the flag that we are going to amend the Constitution to get at you. A half dozen or a dozen people have done that to offend everybody. That should not let us be stampeded into amending our Constitution.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from South Carolina.

Mr. GRAHAM. Mr. President, whether it would ever be a crime to write on the flag or wear it at a concert, who knows? This whole debate is about restoring the power of elected officials to be able to manage such events. The Supreme Court, in a 5-to-4 decision, took the power away from everyone who is elected to have any say about the flag. This happened in 1989.

We have lived here free, open, safe, and secure of being able to regulate conduct toward disrespecting the flag for most of our life. Only since 1989 and a 5-to-4 decision have we had this problem.

I stand here wanting every elected official to have the constitutional power that we previously possessed before the 5-to-4 decision. And we will decide among ourselves what a good statute might be or may not be. Everybody can go through that process and be answerable to the people.

I do not believe it is a burden to place on our citizens at large not to disrespect the flag. It is a burden we can bear as a people. If you do not like me, there are a million ways you can show your displeasure with my time in the Senate. But the fact is, I am an elected representative. All I am asking citizens as a whole is that we have one thing in common—that we are able to talk with each other and debate issues without destroying the flag.

To me, that is a burden that we can bear. Freedom without responsibility is chaos. So it doesn't bother me one bit to turn to my worst enemy and say: This one thing is out of bounds. Have your say, have your fun, do what you are going to do, speak as loudly as you want to speak, but this is one thing I ask of you: please don't destroy the flag.

To the few citizens who feel a need to do that, it doesn't bother me one bit for them to be told no. That is what is wrong with our country today. Nobody is afraid to tell anybody else no. I am not afraid at all; to the few who want to destroy the flag, I am gladly willing to tell you no. That doesn't make me any less free or you any less free.

Mr. DURBIN. Mr. President, I yield 3 minutes to the ranking member, the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished Senator.

As we close this debate and move on to a vote on this proposal, I commend to all Senators the words of the senior Senator from Hawaii, a war hero and veteran, a patriot, an American of the first order. He was long denied the Congressional Medal of Honor that he earned long ago and paid for dearly. He knows why he fought and sacrificed. No one on this floor has fought harder for this country, for its flag, for our freedoms or for our veterans and their families. He has shown characteristic leadership and courage in his statement today against doing damage to our Constitution through this proposed amendment. I am honored to stand with him in this fight to preserve our Bill of Rights. I commend the other veterans, as well, Senators LAUTENBERG and KERRY. I thank the Senators from West Virginia and Massachusetts for their statements and the Senator from New York.

The action by the Republican leadership on this amendment reminds me of the action they forced in connection with the Terri Schiavo case. Then the President hurried back from a vacation with great fanfare to sign a bill rushed through the Republican-led Congress to intrude into a family and personal tragedy. The politicians overreached and the American people saw through it. Here, too, this election-year exercise will be seen for what it is.

This is the second constitutional amendment that the Senate has considered this month in the Republican runup to the November election. Of course, among the amendments the Republican majority has chosen not to consider is the one promised by the 2000 Republican Party Platform, to require a balanced budget. Even Republican partisans must be embarrassed at the deficits that the Bush-Cheney administration and the Republican Congress have generated as they turned an historic budget surplus into an historic deficit.

This proposed amendment regarding flag desecration is another in a series of amendments Republicans have pressed that would result in restricting the rights of the American people. It is one of more than 65 constitutional amendments introduced so far in this Congress alone, and more than 11,000 since the First Congress convened in 1789. Can you imagine what the Constitution would look like if even a small fraction of these amendments had been adopted? The Constitution that we now revere as fundamental law, that provides us with unity and stability in times of trouble, would be like the old French Constitution—filed under ''p'' for ''periodicals.'' We honor our Senate oath when we ''support and defend'' the Constitution. That is what I will be doing by voting today to uphold the Constitution and by voting against amending it.

I am encouraged by the Senate's bipartisan rejection of action on S.J.

Res.1, the proposal to federalize marriage by way of a constitutional amendment. Forty-eight Senators voted against cloture, and I believe that others who voted in favor of more debate were nonetheless troubled by the proposal. The failure of the Republican leadership to obtain even a simple majority of Senators to support their efforts, on a procedural vote, should indicate to them how unwise it is to abuse the Constitution in a partisan election-year tactic.

Like the marriage amendment, the flag amendment would artificially create division among the American people. The timing of this consideration, 4 months before the mid-term election, raises concerns, again, that the Constitution is being misused for partisan purposes. That is wrong.

We act here in the Senate as stewards of the Constitution, guardians and trustees of a precious legacy. The truly precious part of that legacy does not lie in outward things—in monuments or statues or flags. All that these tangible things can do is remind us of what is truly precious: our liberty.

This proposed amendment would be the first amendment to the Constitution that would narrow the precious freedoms enjoyed by Americans under the Bill of Rights. The infringement would fall on the first amendment, the cornerstone and foundation of all of our rights, of which we must be especially protective. The first amendment has stood up in times of war, during times of bitter protest. It has been one of the rocks on which our national unity and our national stability are built.

The proposed amendment is a wrong-headed response to a crisis that does not exist. It would be an unprecedented limitation on the freedom Americans enjoy under the Bill of Rights and would do nothing to bolster respect for the flag. Respect for the flag flows from the freedoms we enjoy and from the sacrifices of those who have protected that freedom. Our cherished flag is the symbol of our Nation and of the Constitution that is the foundational keystone of our Republic, and of our freedom. This is about defending the Constitution, my friends, for which our flag stands. Each generation of Americans owes the next generations the effort and the dedication it takes to pass along the torch of freedom, undiminished. We owe it to them, and to those who have sacrificed so much for us, to cherish and to protect freedom, and the Constitution which is the written promise of that freedom.

Rather than face the solemn responsibility of justifying an amendment to the Constitution, proponents of S.J. Res 12 have urged that we just pass it on to the States and let them decide. They said that Senators should abdicate their responsibility to exercise their best judgment and simply pass the buck. I could hardly believe my ears.

Have we utterly forgotten the words of James Madison and the conservative conception of amendment the Founders built into our Constitution? The Constitution intentionally makes it difficult to pass amendments to our fundamental law. No amendment can pass unless every level of government, from the House to the Senate to the States, overwhelmingly supports it. Our system is undermined if each institution of government does not exercise independent judgment, if we do not fulfill our constitutional responsibility.

This is the fifth time that this body has considered a constitutional amendment to punish flag burners. Some of us have voted on the proposal before; others have not. But either way, we are undertaking the gravest of responsibilities. We are taking in our hands the inalienable rights of Americans, today and the generations that follow long after we have gone. We are handling the most precious heirloom that we have, the finest thing that we can hope to pass on to our children and grandchildren. I would hope that at this of all times we would give the Constitution the respect that it deserves and support and defend it.

This week we returned to use what little time left to the Senate this year to revisit a debate on that has wisely been rejected in this chamber four times in the last 17 years: a proposed amendment that would roll back our first amendment freedoms for the first time in our Nation's history. While we devote precious floor time to debate this matter, the Nation is gripped by the ongoing war in Iraq, the continuing threat of terrorism, soaring energy and health care prices, rising inflation, and a burgeoning deficit.

Indeed, this debate is another illustration of the Republican leadership's disregard for the needs of the American people and the institutional responsibilities of this body. They continue to mistreat our Constitution as if it were a bulletin board on which to hang political posters or bumper stickers. The Constitution is too important to be used for partisan political purposes, and so is the American flag.

The timing of this debate raises the question of why the Republican leadership has made this issue its top priority in the face of an unfinished agenda of legislative matters that do concern Americans day in and day out. The Senate has hardly made progress on a legislative agenda. We have yet to consider any of the 13 appropriations bills for the year. We have yet to enact a budget resolution, which was required by law to be in place on April 15. We have yet to enact a lobbying reform bill, a comprehensive immigration bill, or pension protection legislation. We have yet to consider or pass asbestos litigation reform legislation, patent reform legislation or the reauthorization of the Voting Rights Act. We have yet to pass a long overdue raise in minimum wage, to take action to lower gas prices, health care costs or health insurance costs. Instead, with less than 10 weeks left in this session of Congress, the Republican leadership will work on none of those important matters.

The amendment we consider today would artificially create division among the American people, and the timing of this debate—squarely in the middle of an election year—demonstrates, again, that the Constitution is being misused for partisan purposes. The Constitution deserves our respect, vigilant protection and in the words of our Senate oath our ''support''. We have a duty to defend it. The Constitution is not a blog for venting political opinions, curry favoring with voters or trying to bump up sagging poll numbers.

The flag is an important symbol of all that makes America great. But the cynical use of symbolic politics in an election year will not address the very real needs of veterans and other Americans that are being left unmet by this administration and the Republican Congress.

I know that many veterans support the flag desecration amendment and I respect their views. We must not forget though that there also are many veterans who oppose it. I appeared with a number of distinguished veterans on Flag Day who spoke about their dedication to the principles that make this country great and for which they fought and sacrificed. Those principles include our precious freedoms under the first amendment. These veterans of World War II, Korea, Vietnam, the First Gulf War and Iraq made clear that they fought for what the flag stands for, not just the symbol itself.

Former Senator John Glenn, a combat veteran, wrote: ''The flag is the Nation's most powerful and emotional symbol. It is our most sacred symbol. And it is our most revered symbol. But it is a symbol. It symbolizes the freedoms that we have in this country, but it is not the freedoms themselves.''

The late John Chafee, a distinguished member of this body and a highly decorated veteran of World War II and Korea, opposed this amendment because, he said: ''We cannot mandate respect and pride in the flag. In fact taking steps to require citizens to respect the flag, sullies its symbolism and significance.''

Flag desecration is a despicable and reprehensible act. We agree with that—all of us agree that it is contemptible. That is not the issue, instead, the issue before us is whether we should amend the Constitution of the United States with all the risks that that entails and whether, for the first time in our history, we should narrow the precious freedoms ensured by the first amendment. Should we amend the first amendment so that the government can prosecute the handful of individuals who show contempt for the flag, those General Powell called miscreants? Such a monumental step is unwarranted and unwise.

We are being tested. This generation of Americans is being tested by the

threat of international terrorism. America wins when it meets that challenge without allowing those who threaten us to compromise us. We suffer losses not only when we suffer attacks as we did toward the end of President Bush's first year in office, but also when we give up those freedoms that define us as Americans. For the Congress to surrender our fundamental rights as Americans as proposed in the constitutional amendment is wrong.

Following the very real attacks on 9/11, Americans embraced the flag like never before, proudly displaying flags and flag symbols as a sign of unity and strength in the wake of those horrible acts against our nation. People around the world grieved for us, cared for us, and joined with us to fight terrorism. Over time, missteps and arrogance by the Bush-Cheney administration have alienated much of the world. Still, Americans of all political persuasions have not needed a law to tell them how precious our freedoms are or how to honor the Stars and Stripes.

Supporters of this constitutional amendment seem to believe that Americans need rules about respecting the flag punishable by law. I strongly disagree and the American people have already proven them wrong. The American people do not need a lesson in cherishing and honoring our flag and the Republic for which it stands. That may be necessary in Saddam Hussein's Iraq or in Stalin's Soviet Union or in Castro's Cuba, but not in America.

In fact, respect cannot be coerced or compelled. It can only be given voluntarily. We respect and love our country, but not because we are told to. Americans do not love our country because we would be punished if we did not. Some may find it more comfortable to silence dissenting voices, but coerced silence creates resentment, disrespect, and disunity. I proudly fly the flag at my farm in Vermont because, as an American, it is what I choose to do.

In every hamlet and city and on every rural route in America, you can see our flag being flown with pride. Americans in overwhelming numbers are honoring our flag, not defacing it.

Of course, there are times when individuals deface the flag or violate the rules for its care. For example, President Bush was captured on film signing a hand-held flag at a campaign rally in the summer of 2004. Appropriate or not, these acts are protected by our Constitution. They do not need to be punished by Congress after we pass a constitutional amendment restricting the first amendment rights of all Americans.

In all of the hearings, all of the debate that we have devoted to this topic over the past 17 years, not one single person has testified that he respects the flag less because a protestor burned it, wrote on it, sewed it in the seat of his pants, or otherwise misused it. Not one.

Not one single person has testified that they love our country less because Americans are free to express themselves in this way. Not one. There is not a single indication that any act of flag burning has lessened the respect that any American has for the flag or for our country. It would be pathetic if our love of country or respect for its fundamental principles was so weak that it could be diminished by such an act. We know that it is not.

The truth is just the opposite. Occasional insults to the flag do nothing to diminish our respect for it. Rather, they remind us of our love for the flag, for our country, and for our freedom to speak, think and worship as we please.

Our flag is a cherished symbol. As are the freedoms for which it stands, including the freedom to express unpopular speech or ideas—even extremely unpopular ideas.

As I have said many times throughout this debate, I wish the Senate would, instead, use its time to discuss and solve the real problems that real Americans are facing right now, instead of trying to stir public passions for political ends.

I respectfully suggest that in the less than 10 weeks left to us in session this year, the Senate's resources would be better spent working to improve veterans' health care services, survivors' benefits and protecting veterans' and Americans' privacy. There are so many issues that we could turn to that would help improve the lives of our veterans and their families. Why not focus on them?

Just today on the front page of the newspaper, we learned that this Government's bureaucratic bungling has resulted in widows of those who have served this Nation and sacrificed for all of us are being denied the survivors' benefits to which they should be entitled. This news follows closely public reports that post-traumatic stress disorders among our veterans are on the rise.

Instead of seeking to turn the flag into a partisan political weapon and the Constitution into a billboard for political slogans, for partisan gain, we could be spending time debating these real issues or much-needed funding for services to our veterans. This President's budget requests have consistently fallen short of the levels needed to provide necessary services and care. President Bush's budgets force our veterans to subsidize their government health care and simply does not account for the increase in demand for VA services due to the Iraq war.

We could also be taking real action to prevent the kind of data losses that just affected millions of our veterans. We just witnessed the largest theft of private information from the Government ever, the loss of information on more than 26.5 million American veterans, including more than 2 million who are in active service, nearly 80 percent of our active-duty force and a large percentage of our National Guard and the Reserve.

Last year, Senator SPECTER and I introduced the Personal Data Privacy and Security Act, which requires Federal agencies and private data brokers to give prompt notice when sensitive personal information has been breached or stolen. The Judiciary Committee overwhelmingly approved this bill last fall, but almost a year later, the Senate has still not acted on this legislation. Had this bill been enacted, it would have required the VA to promptly notify the millions of veterans now at risk of identity theft about the theft of their personal data. Our bill also addresses the Government's use of personal data by putting privacy and security front and center in evaluating whether data brokers can be trusted with Government contracts that involve sensitive information about the American people.

The Nation's veterans—who have been willing to make the ultimate sacrifice for their country—deserve to have the best tools available to protect themselves and their families from identity theft. The Senate should be acting to consider and pass comprehensive data privacy and security legislation.

Sadly, the list of what we are not accomplishing goes on and on. The way things are going, under Republican leadership, this session will make the ''do nothing'' Congress against which President Harry Truman ran seem like a legislative juggernaut.

The days we have spent on this amendment could be spent more productively on any of the matters I have mentioned. There are less than 10 weeks remaining in the Senate's scheduled work year. It seems that even with all that remains undone, at this point in this election year, floor time is available only for matters that advance the Republicans narrow political agenda.

Republicans have the Senate majority; they control the schedule, they set the priorities. In my view, it reflects a strange set of priorities to think our national interest is best served at this time by debating a constitutional amendment to roll back the Bill of Rights for the first time in our history.

I treat proposals to amend the Constitution with utmost seriousness, for it is a serious responsibility. I began this debate by noting my home State of Vermont's tradition of independence and commitment to the Bill of Rights. Vermont did not and would not become a State until 1791, the year the Bill of Rights was ratified. At one time, we declared ourselves an independent republic.

I plan to proudly uphold that tradition today by voting against this amendment, and I hope, although likely in vain, that the Senate will move on to more pressing matters that directly affect the lives and livelihoods of the American people.

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

JUNE 8, 2006.—Now that the Republican leaders in the Senate have finished wasting

the nation's time over a constitutional ban on gay marriage, we're bracing for Act Two of the culture-war circus that the White House is staging to get out the right-wing vote this fall.

Senator Bill Frist, the majority leader, plans to continue to set aside work on pressing issues facing the country to vote on yet another unworthy constitutional amendment—a prohibition on burning the American flag.

If the gay marriage amendment was a pathetic attempt to change the subject in an election year, the flag-burning proposal is simply ridiculous. At least there actually is a national debate about marriage, and many thousands of gay couples want to wed. Flag burning is an issue that exists only for the purpose of pandering to a tiny slice of voters. Supporters of the amendment cannot point to a single instance of anti-American flag burning in the last 30 years. The video images that the American Legion finds so offensive to veterans and other Americans are either of Vietnam-era vintage or from other countries.

Nevertheless, flag burning remains one of those ''wedge issues'' that Republicans use to denigrate the patriotism of Democratic candidates or to get the party's base out to vote.

The other big difference between the two amendments is that the ban on gay marriage was never going to get the two-thirds vote in Congress required to send it to the states for ratification. Yesterday, the Senate rejected it by 49 to 48, with the help of seven Republicans.

The flag-burning amendment, on the other hand, actually could pass. A realistic nose count based on members' public statements and how they voted when the measure last came up, in 2000, suggests the Senate may be just a single vote short of punching a hole in free speech.

Senator Harry Reid, the minority leader, should be rallying Democrats to join the small handful of principled Republicans so far willing to oppose the amendment. But as things stand, he is among the Democrats who plan to vote for this constitutional vandalism. Opponents of the amendment, like Senator Patrick Leahy, Democrat of Vermont, are standing on firm ground in trying to protect the Bill of Rights from an election-year stunt.

It is the patriotic thing to do.

CONGRESS NEARS CHOICE: PROTECT FREEDOM OR STOKE ANGER?

In early June an allegedly drunken man in West Haven, Conn., yelled racial epithets and tore up an American flag while arguing with police and passersby. Earlier in the spring, instances of vandalism involving flags were reported in New Hampshire and New York.

Those three episodes of 2006—as compiled by the Citizens Flag Alliance, a group pushing for a constitutional amendment to protect the flag—constitute the raging menace of flag desecration.

In fact, they show what a non-issue flag desecration is. Instances are rare and easily addressed by local laws. They hardly require the extraordinary act of amending the Constitution.

But in a Congress unwilling to address important matters—its own ruinous spending and flagrant corruption to name just two—symbolism is the politically convenient substitute for substance. The Senate will soon take up an amendment to stop flag burning, and the vote is expected to be razor close. The House of Representatives has passed it, meaning that it could soon be sent to state legislatures, where it would be ratified if three-quarters approve.

While it's tempting to dismiss this as trivial election-year posturing, the precedent is troubling. It would for the first time alter the cornerstone of American freedom, the Constitution's First Amendment.

That is not a small matter. The First Amendment is the reason Americans are free to say what they think. It is also the reason people here can worship as they wish, associate with whomever they please, and get news and information from a free and independent press. It gives citizens a right to have grievances redressed. To limit those rights—especially for so trivial a reason—is to say they are no longer sacrosanct.

They should be. They are what makes America unique.

If Congress banned something as pathetic as flag desecration to score political points, surely it would consider limiting other unpopular speech.

The amendment's wording virtually guarantees that outcome. Would it, for instance, cover depictions of flags as well as actual cloth banners? Would sitting on a flag patch sewn onto the back of a pair of jeans count?

And what about the issue of flying a flag upside down? This has already become the preferred form of protest for people pushing for everything from an immediate withdrawal from Iraq to better psychiatric care for veterans. These protesters often say that they respect the values the flag represents, but that they believe those values are being subverted by people in power. Does this country really want to criminalize such a nuanced form of political dissent?

These issues would be left to legislation drafted by future Congresses and interpreted by courts. All of that, in turn, would weaken individual rights that are at the Constitution's heart.

And for what gain? Proponents of an amendment say the flag is such an important symbol of American democracy that it deserves a special status. But the Connecticut flag burner was charged with seven offenses ranging from public consumption of alcohol to criminal mischief. Surely, that is sufficient.

In fact, what makes the flag so special is this: It stands for a nation that deems individual liberties so important, it tolerates unpopular minority opinion.

The main threat to the flag comes not from the occasional burning of Old Glory. It comes from those who would sacrifice the principles the flag represents.

[washingtonpost.com, June 21, 2006]

FLAG BURNING REDUX

With Congressional elections coming, the Republican leadership has found a pivotal issue. Terrorism? Hardly. Entitlement reform? Don't be silly. We're talking about the grave threat to America known as flag burning. Yes, that election-year favorite is back: the proposed amendment to the Constitution of the United States allowing Congress to criminally punish the ''physical desecration'' of the American national banner. If you haven't noticed a rash of flag-burning incidents sweeping the nation that's because, well, there isn't one. But that doesn't stop Republicans from trotting it out as a more-patriotic-than-thou card.

They are, as always, close to having the votes to send it to the states for ratification. The House of Representatives has passed the measure and the vote will be tight in the Senate, where the Judiciary Committee approved the amendment 11 to 7. We hope the amendment will fall short of the needed two-thirds majority on the Senate floor; it's depressing enough that a majority of senators will support it.

The amendment would soil the First Amendment's command that Congress shall ''make no law . . . abridging the freedom of speech.'' Flag burning is an odious form of expression. But there are lots of odious forms of expression the First Amendment protects: Holocaust denial and swastikas, racist rants and giant Confederate flags, hammers and sickles. The amendment's power is in its self-confident sweep: Speech, including expressive acts, will not be censored. Government cannot punish ideas. Members of Congress who would protect the flag thus do it far greater damage than a few miscreants with matches.

The PRESIDING OFFICER. The assistant Democratic leader is recognized.

Mr. DURBIN. Mr. President, I have spoken to the Senator from Utah, and I would like to ask how much time I have remaining.

The PRESIDING OFFICER. Four minutes.

Mr. DURBIN. I understand the Senator from Utah will then close.

The PRESIDING OFFICER. He has 6 minutes.

Mr. DURBIN. Thank you, Mr. President.

Mr. President, first, I ask unanimous consent that Senators CARPER and BOXER be added as cosponsors to my pending amendment, and I ask unanimous consent that three commentaries in opposition to the flag amendment be printed in the RECORD.

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

[From the Chicago Sun Times, June 21, 2006]

ILL-STARRED FLAG AMENDMENT WOULD DO NATION NO GOOD

Nearly 30 years after Cubs outfielder Rick Monday snatched an American flag from two idiots at Dodger Stadium who had doused it in lighter fluid and were trying to light it with a match, we still applaud him for his exemplary act of patriotism—for acting on our behalf. As devoted as we are to free speech, we would have been hard-pressed to bottle our anger over the desecration of the Stars and Stripes before tens of thousands of spectators.

Our appreciation of Monday was not diminished by his appearance last week at a rally for a proposed flag desecration amendment—an event at which he exhibited the rescued flag, which was presented to him by the Dodgers. But however heartfelt this gesture was, it was wrongheaded in lending support to a manufactured cause with no real value except a political one, the equivalent of throwing red meat on the table.

You would think, from the emotional momentum this issue has gained in recent times, there is a pressing need for an anti-flag-burning amendment. Most Americans are in favor of it. The House has backed the amendment, and the Senate may well follow suit next week, when it is scheduled to decide on the constitutional ban. Reportedly, it is within a vote or two of the two-thirds majority it needs. In 2000, it fell four votes short.

But, in fact, this is a classic example of a solution in search of a problem. Flag burnings, which most of us associate with Vietnam-era protests, have all but disappeared from the American landscape. No protests of the war in Iraq (which have been relatively few) have featured flag desecrations. The closest anyone has come to publicly mistreating the flag, arguably, was a case of two athletes wrapping themselves in it at the Olympics.

You might also think this is an issue in need of legal clarification. But, no, the Supreme Court ruled in 1989 that as distasteful or offensive as this kind of protest is, it is protected by the First Amendment. A year later, the high court overturned the federal Flag Protection Act. The fact that yet another effort is being mounted tells you not that the principles have changed, but the political climate has. Sorry, but that's not a good enough reason to alter the Constitution.

This represents the consensus of the Sun-Times News Group of 100 newspapers in the metro Chicago area.

EMERGENCY COMMITTEE TO DEFEND THE FIRST AMENDMENT

The following statement was released today by Professors Norman Dorsen and Charles Fried, Co-chairs of the Emergency Committee to Defend the First Amendment. The Committee is composed of prominent Americans—conservative, moderate and liberal—including former officials of the Reagan Administration, former Republican members of Congress, senior professors of constitutional law, several former presidents of the American Bar Association, and leaders of other national organizations.

The First Amendment to the United States Constitution has served us since 1791 through wars, including a Civil War, and crises of every sort without the need for amendment. It is an icon of our freedom. To amend it now comes close to vandalism.

The proposed constitutional amendment limits how people may protest and sets a precedent for banning other forms of dissent. If the flag, why not the Great Seal of the United States or the Constitution? Why not the Bible or (to be ecumenical) religious icons of all faiths? The founders of this country would have been shocked at the notion that the government could restrict ways by which the people can protest conditions in the country or the government's own policies.

As the Boston Tea Party illustrates, the founders were familiar with symbolic protest. Moreover, the American revolutionaries were also not exactly kind to their country's flag, the Union Jack. George Washington ordered thirteen red and white stripes sewn onto it and called it the ''Thirteen Rebellious Stripes.'' Pennsylvania's first flag after declaring independence was a British flag with a coiled serpent ready to strike at the English ensign. These protests ''desecrated'' the country's then-existing flag.

Totalitarian countries fear dissenters sufficiently to suppress their protests. A free nation relies on having the better argument. It is possible to burn a particular flag, but no one can destroy the symbol and meaning of the flag. No matter how many flags are burned, the American flag will still exist, untarnished and waving bravely in the breeze.

The Emergency Committee urges the Senate to demonstrate the sort of statesmanship of which it is capable by rejecting the proposed constitutional amendment.

EMERGENCY COMMITTEE TO DEFEND THE FIRST AMENDMENT:

Terry Anderson; Writer, former Journalist; Former Lebanese Hostage.

Derek Bok; President, Harvard University (1971–1991); Dean, Harvard Law School (1968–1971).

Clint Bolick; Litigation Director, Institute for Justice.

Benjamin Civiletti; Partner, Venable, Baetjer & Howard; U.S. Attorney General (1979–1981).

John J. Curtin, Jr.; Partner, Bingham Dana & Gould; President, American Bar Association (1990–1991).

Norman Dorsen; Stokes Professor of Law, New York University Law School; Counselor to the President of New York University; President, American Civil Liberties Union (1976–1991).

Bruce Fein; Lawyer and Journalist; Former Department of Justice Attorney.

Charles Fried; The Beneficial Professor of Law, Harvard Law School; Solicitor-General of the United States (1985–1989).

Shirley M. Hufstedler; Of Counsel, Morrison and Forster; Circuit Judge, U.S. Court of Appeals, 9th Circuit (1968–1979).

Martin Lipton, Partner, Wachtell, Lipton, Rosen & Katz.

Robert MacCrate; Partner, Sullivan & Cromwell; President, American Bar Association (1987–1988).

Charles McC. Mathias, Jr.; Partner, Jones, Day, Reavis & Pogue; U.S. Senator (R–MD, 1969–1987).

J. Michael McWilliams; Partner, Tydings & Rosenberg; President, American Bar Association (1992–1993).

Robert M. O'Neil; Director of the Thomas Jefferson Center; President, University of Virginia (1985–1990).

Roswell B. Perkins; Partner, Debevoise & Plimpton; Former President, American Law Institute.

Roger Pilon; Director, Center for Constitutional Studies, The Cato Institute.

E. Barrett Prettyman, Jr.; Partner, Hogan & Hartson; Trustee, National Council on Crime and Delinquency.

Roberta Cooper Ramo; Partner, Modrall, Sperling, Roehl, Harris & Sisk; President, American Bar Association (1995–1996).

James H. Warner; Lawyer; White House Domestic Policy Staff (1985–1989); Former Vietnam POW.

THE AMERICAN LEGION,
AMERICAN LEGION POST #315,
San Francisco, CA, July 14, 2005.

Re Oppose S.J. Res. 12, the Flag ''Desecration'' Constitutional Amendment.

DEAR SENATOR: As the Commander of American Legion Post #315 in San Francisco, CA, I write to urge you to oppose S.J. Res. 12, the proposed constitutional amendment to prohibit ''desecration'' of the flag. Although the national American Legion leadership supports this amendment, I wish to express my disagreement with that position and my dismay with the apparent willingness of Congress to amend the First Amendment to restrict free speech.

Acts of burning or otherwise defacing the flag are rare, but they can be a powerful form of expression. I should be clear that it saddens me to think of those who would damage the flag, but I believe it my duty to defend their right to do so. The flag stands for freedom, yet this constitutional amendment would diminish fundamental freedoms by undermining the right to free expression guaranteed by the Bill of Rights.

American Legion posts across the country recently marked the passing of Flag Day by organizing flag burning ceremonies to dispose of worn and damaged flags. Proponents of the flag amendment say they seek to ban an act, not a form of expression. Surely they do not mean to ban respectful flag disposal ceremonies like these. Rather, they seek to prohibit acts of flag desecration that are intended to convey a certain political message. When the founders drafted the First Amendment, they intended to protect peaceful expression, however unpopular and offensive. In fact, it is precisely such unpopular speech that requires the protection afforded by the Constitution.

There is significant diversity of opinion among veterans in general and American Legion members in particular on this issue. In fact, just last year a past National Commander of the Legion, Keith Kreul, gave Senate testimony in opposition to the flag amendment. I suggest, as Mr. Kreul did, that this amendment is not an appropriate way to honor the service of this nation's veterans. There are many pressing concerns facing our veterans and active duty troops, including shortfalls in funding for veterans healthcare and daily dangers facing troops serving in Iraq. The flag amendment is an unfortunate distraction from these issues.

If passed, the flag amendment would constitute the first-ever restriction on the Bill of Rights. I urge you to oppose this measure. In doing so, you will defend the true spirit of the Constitution, and the freedoms for which the flag stands.

Sincerely,

SHARON LEE KUFELDT,
Commander, American Legion Post #315,
U.S. Air Force Veteran.

Mr. DURBIN. Mr. President, you have heard the debate for 2 days now. On one side of the aisle, those supporting this amendment have summarized their feelings in three words: Respect the flag. On the other side of the debate are those who say: Respect the Constitution. They understand that what we are being asked to do is historic. Senator BYRD has reminded us. This would be the first time in the history of the United States of America that we would amend the Bill of Rights.

It is a historic moment. And it takes some audacity and bravado for any sitting Member of the U.S. Senate to believe they have a better idea than James Madison, Thomas Jefferson, and our Founding Fathers had over 200 years ago. It takes a special circumstance for us to even consider changing that beloved first amendment, which has guided us for more than two centuries.

The incidents of flag burning are rare. They are disgusting. But there are ways we can deal with this without defiling this Constitution.

Senator HATCH's amendment says do not desecrate the flag. I believe we should not desecrate the Constitution. There is a way. The pending amendment points to the way: a Federal criminal statute carefully drawn to meet the Supreme Court test that would really deal with preserving and protecting the flag as we know it, as an important symbol of America, without invading our Bill of Rights. And the second part of my amendment which I am offering is one that you know about because you hear about it all the time.

There is this demented group—I will not even give the full name of this church from Topeka, KS, because I do not want to give them any publicity. But this demented group is appearing now at military funerals, the funerals of veterans and soldiers, demonstrating. Here they are issuing a press release that says: ''Thank God for IEDs (Improvised Explosive Devices),'' announcing they are coming to my home State of Illinois to picket the funeral of Army SPC Brian Romines, who was 20 years old, at the Anna Heights Baptist Church in Anna, IL. It is disgusting: this family, racked with grief,

trying to get through the most difficult day of their lives, having to walk through the lines of demonstrators this demented person would bring to the funeral.

Well, the Senator from Idaho has said on the floor that I have gone too far with my amendment, I have gone too far in limiting these demonstrations at military funerals. I think he is wrong. These demonstrations are wrong not just in national cemeteries, they are wrong in all cemeteries. They are wrong at all churches. They are wrong at all funerals. And the Senate will have a chance, with my amendment, to vote and say that we will limit this kind of disgusting activity that disrespects the men and women who have fought and died for America.

That is the amendment before us, an amendment to protect our flag and to protect the memory of those who have fought and died for our country. I am proud to offer this bipartisan amendment. It is an amendment which, at the end of the day, we can point to with pride because we have done something important.

But I urge my colleagues, think long and hard about being the first to amend the Bill of Rights in the history of the United States of America. We have given our oath to uphold and defend that Constitution. Today we will be put to the test. Will we uphold and defend that Constitution from a change that is totally unnecessary?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Utah.

Mr. HATCH. Mr. President, what does the Bill of Rights have to do with this? That argument is not a valid argument. Look at what the amendment says:

> The Congress shall have power to prohibit the physical desecration of the flag of the United States.

There is no interference with the Bill of Rights. Yet the Senator—the Senators—who want to so-called protect the Bill of Rights have come up with a statute that does exactly the opposite, according to their way of looking at it.

Frankly, there are only five Justices who said that defecating on the flag, urinating on the flag, burning it with contempt, and stomping on it is not a violation of the first amendment.

But this amendment does not have anything to do with that. All this amendment says is that we are going to give the power back to the people and to the people's representatives in Congress, and they will make the determination as to how we protect the flag, if they decide to. In other words, we are going to restore the Constitution to what it was before these unelected five Justices on the Supreme Court changed it. And four others disagreed with them.

By the way, the distinguished Senator from Massachusetts said this is election-year politics. I wonder how he explains the 6 years in a row that the House of Representatives, in bipartisan votes, has passed this amendment by the requisite two-thirds vote? I wonder how he is going to explain that 48 States had antiflag desecration statutes before the Supreme Court wiped all of that out and all of the people's work and all of the people's will out. What is he going to say about the 50 States, including his, that have petitioned us for this amendment? Fifty State legislatures have asked for this amendment.

There are 60 cosponsors in the Senate. There are at least six others who have always voted to protect the flag. I question whether all six of those will vote for this. But the fact is, they should because they have always voted for it. So there are at least 66 people who should be voting for it.

There is no narrowing of the Bill of Rights by this amendment. That argument would have to take place after this amendment passes by the two-thirds vote, if it could, and then is ratified by 38 States. Then there would be a debate where they could raise all the issues they want about the first amendment, faulty though they are.

The fact is that I was asked this afternoon by a large body of media: Is this the most important thing the Senate could be doing at this time? I can tell you, you're darn right it is. The fact is, we had five unelected Justices who overturned 100 years of Supreme Court precedent, backing up 48 States that have had antiflag desecration amendments. We have had 50 States ask for a change here so we can go back to protecting our flag.

What we would be doing is sending a message to the Court: You cannot usurp the power of the Congress of the United States. That is what is involved. I hear time after time complaints about the courts usurping the powers of the Congress and other branches usurping the powers of the Congress. Here is a chance to bring that power back to the Congress where it belongs and then have that debate. It would still take 60 votes because of the opposition of some. It would still take 60 votes to pass a statute if we could pass this amendment.

The fact is, if you want to respect the Constitution, let's restore it to what the Constitution was before five unelected jurists changed that Constitution. The fact is, this amendment is one of the most important things we can do to send a message to the U.S. Supreme Court that: You cannot usurp the power of the legislative branch of this Government.

It does nothing about the Bill of Rights. That would have to be argued later if we pass this amendment and have it ratified. Then we could argue about the Bill of Rights later. And I will bet you money, the only reason Senators are claiming the Bill of Rights is to try to justify their vote. But now, if they believe the Bill of Rights is being interfered with, then why would they come up with a statute to do the very same thing they are saying this amendment does? Why have they always come up with a statute that basically, if you use their logic, invades the first amendment to the Constitution? Why would they do that? There is only one reason. It is a political reason to cover their backsides.

Mr. President, I thank the Senate.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, in a few moments we will be voting on the two amendments, which really follows the good debate we have had since yesterday when we began debate on this flag protection amendment. As I promised early in the year, I brought this joint resolution to the floor this week in part in anticipation of the Fourth of July recess—a time when all of us go back and think about the flag and the enduring ideals of freedom and opportunity that it represents.

It has been 6 years since we have had that debate on this floor. It is something that comes to the House each and every Congress, and they vote on that. So I felt it would be appropriate. Indeed, in listening to the debate—the Constitution issues and the importance of the flag—I have been very pleased, and I hope that debate reflects passage of the amendment in a few moments.

It is my hope, when we return to our home States next week or later this weekend to celebrate the anniversary of America's independence, we will be able to tell our fellow citizens that we did the right thing here in Congress and voted to give Congress the power to protect the Stars and Stripes.

Americans have so much to be proud of. We enjoy a greater measure of liberty and justice and equality than any other country in human history. Millions upon millions of people have come to these shores seeking a better life, and they have found it here. We are a nation of hopeful, resourceful people who continually strive to live up to our ideals and provide greater and better opportunities for our children. There is one symbol that above all others encapsulates that hope, that freedom, our history and our values, and that is the American flag.

From the time we are schoolchildren, we honor our flag and all it stands for. With our hand over our heart, each morning here in this body, the U.S. Senate, we honor it. In times of crisis, raising those Stars and Stripes has symbolized our unity, our perseverance as a nation, as a people. Whether it is the marine struggling to plant the flag on Iwo Jima or firefighters lifting the flag above the ruins of the World Trade Center, it is that flag which inspires us to great acts of heroism, of courage, of strength.

Unfortunately, however, there are no laws on the books to stop anyone from destroying this cherished symbol. Although the vast majority of Americans—over 80 percent—and all 50 of our State legislatures believe the flag

should be protected, the Federal Government is currently powerless to enforce flag protection laws. That is because in 1989, as we talked about, the Supreme Court, in a 5-to-4 decision, overturned 200 years of precedent and struck down all laws prohibiting flag desecration. As our colleague from Utah just said, it was a one-vote margin, 5 to 4, with five Judges stripping the right of the American people—through their voice, through this body—to protect that flag. It is my hope and really my purpose in bringing that amendment to the floor to reverse this decision, this activist decision, and return to the American people the ability to protect the flag, if they so wish.

So in a few minutes in the Senate, we are going to have a vote to return to the people, through this body, the opportunity to protect the flag. And it is one single, simple sentence:

The Congress shall have power to prohibit the physical desecration of the flag of the United States.

That is what we will be voting on. Key words: ''The Congress shall have the power.'' All 50 States have passed resolutions calling on the Congress to pass a flag amendment. The House passed a constitutional amendment to protect against desecration of the American flag in this Congress and in the last Congress, in the last Congress, in the last Congress, in the last Congress, and in the last Congress, and now it is time for us to do the same. We have failed to muster those two-thirds votes in the past.

Today, we have a new opportunity to change that and to honor the wishes of the American people. We are a Nation founded on principles. Our flag is what binds us to those principles, to one another; it is that physical symbol of our values, liberty, justice, freedom, and independence. It commands our loyalty. To countless people around the world, the red, white, and blue represents the highest of human ideals—freedom.

I know we have heard again and again through the media the whole issue about flag burning being protected as an exercise of free speech. But is defacing a Government building free speech? Do we let our monuments be vandalized? Clearly, the answer is no. I believe that our American flag deserves the same respect. America is the freest country in the world and we have the right to express dissent and persuade fellow citizens of our views. But destroying the very emblem of that freedom is just plain wrong. Countless brave men and women have died defending the flag. It is but a small, humble act for us to defend it.

I will close with the words of our esteemed colleague, Senator HATCH, who has done such a wonderful job in managing this particular bill and a tireless advocate for the amendment. Here are his words:

Whatever our differences of party, race, religion, or socioeconomic status, the flag reminds us that we are very much one people, united in a shared destiny, bonded in a common faith in our Nation and the profound belief in personal liberty that our Nation protects.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Durbin amendment.

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—36

Akaka	Dorgan	McConnell
Bennett	Durbin	Menendez
Biden	Harkin	Mikulski
Bingaman	Inouye	Murray
Boxer	Jeffords	Obama
Byrd	Kennedy	Pryor
Cantwell	Kerry	Reed
Carper	Kohl	Reid
Chafee	Lautenberg	Salazar
Clinton	Leahy	Sarbanes
Conrad	Levin	Schumer
Dodd	Lieberman	Wyden

NAYS—64

Alexander	Domenici	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Baucus	Feingold	Roberts
Bayh	Feinstein	Rockefeller
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Chambliss	Hatch	Specter
Coburn	Hutchison	Stabenow
Cochran	Inhofe	Stevens
Coleman	Isakson	Sununu
Collins	Johnson	Talent
Cornyn	Kyl	Thomas
Craig	Landrieu	Thune
Crapo	Lincoln	Vitter
Dayton	Lott	Voinovich
DeMint	Lugar	Warner
DeWine	Martinez	
Dole	McCain	

The amendment (No. 4543) was rejected.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution, as amended, pass?

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 66, nays 34, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—66

Alexander	Domenici	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Baucus	Feinstein	Reid
Bayh	Frist	Roberts
Bond	Graham	Rockefeller
Brownback	Grassley	Salazar
Bunning	Gregg	Santorum
Burns	Hagel	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Smith
Coburn	Inhofe	Snowe
Cochran	Isakson	Specter
Coleman	Johnson	Stabenow
Collins	Kyl	Stevens
Cornyn	Landrieu	Sununu
Craig	Lincoln	Talent
Crapo	Lott	Thomas
Dayton	Lugar	Thune
DeMint	Martinez	Vitter
DeWine	McCain	Voinovich
Dole	Menendez	Warner

NAYS—34

Akaka	Dorgan	Lieberman
Bennett	Durbin	McConnell
Biden	Feingold	Mikulski
Bingaman	Harkin	Murray
Boxer	Inouye	Obama
Byrd	Jeffords	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Sarbanes
Chafee	Kohl	Schumer
Clinton	Lautenberg	Wyden
Conrad	Leahy	
Dodd	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 66, the nays are 34. A quorum being present, two-thirds of the Senators voting not having voted in the affirmative, the joint resolution is rejected.

The Senator from California.

Mrs. BOXER. Mr. President, I would like to make a statement explaining my vote. I wonder if that is in order at this time.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

Mrs. BOXER. Mr. President, I had tried to get time earlier in the day. Unfortunately, I was tied up in a markup. I want to express myself briefly on the constitutional amendment.

I opposed it, even though clearly it was far more popular in the country to support it. I did so because of my love of our country, our Constitution, and our freedoms. The love of country runs deep in my veins, as I know it does in those of every Senator.

My family came here in the early years of the 20th century to be safe from the Holocaust in Europe, the nightmare that took the lives of our relatives and so many innocent people. To my family and to me, America was not only a land of strength and courage but a land of compassion and acceptance. My father, who was a CPA, always said to me: Kiss the ground when you pay your taxes to America because you are helping to build our military, our schools, our roads, and our infrastructure.

My mother said that being an American meant being free to live your dreams, and only in this country, she would say, in America, where she was brought as a baby by her family, would that be possible.

I was taught not to be afraid of disagreement, not to fear words and not

to shrink from an argument in this, the greatest country on Earth. In a great country like the United States of America, you don't fear dissent. In a great country you allow dissent, even if it is ugly, even if it makes you sick to your stomach, even if it disgusts you. We are so strong as a Nation that we know if someone takes one of our beautiful symbols and destroys it or burns it or spits on it or steps on it, that person will not win respect but will lose it. That person will not win friends but in fact will turn people away. That person will gain nothing for his cause but, in fact, will be ridiculed and marginalized.

Now if a flag is burned or if a copy of the Bill of Rights or a copy of the Constitution is burned and that act is meant to incite others and it places people in danger, we should have laws to punish those who would endanger other lives. That is why I was proud to support the Bennett-Clinton-Durbin amendment, to do just that. I can certainly understand how seeing our flag burn would inflame passions and incite outrage. It does so in me.

The flag to me is a symbol of something I hold near and dear to my heart—our democracy, our country, our history. And I am outraged when I think about someone treating the flag in a disrespectful manner. But I am also outraged when I see or hear about a group of people protesting at the funeral of a fallen soldier, saying things like ''thank God for dead soldiers'' or ''God is America's terrorist.'' That is what is going on today at soldiers' funerals.

Such despicable speech and disrupting the most sacred funerals of our heroes makes no sense to me, and I can't begin to imagine the emotions of the families of the soldiers who must endure these senseless protests at a time of such loss. My instinct is to haul these protesters away. My colleague, Senator DURBIN, proposed an amendment that would prohibit these awful protests at all funerals for our fallen heroes, regardless of where the funerals take place, whether at a national or private cemetery, a funeral home or a house of worship. I was proud to support that amendment, and I was stunned to see how many of my colleagues turned away from it.

I agree with the approach of Senator DURBIN to the protests—proposing a statutory solution to address a problem rather than unnecessarily amending our Constitution. There are many things in life that we find offensive, repugnant to beliefs that we hold dear, but we cannot amend the Constitution every time there is something we consider outrageous, offensive, or repugnant.

We have only amended our Constitution 16 times after the Bill of Rights was passed in 1791—16 times over 214 years. But the Republican leadership has decided the best use of our precious little working time is to amend the Constitution—not amend it to guarantee equal rights for women, which still has not been done, not to amend it to allow limits on wealthy individuals buying Federal office—but for an issue which I believe we can address by statute, as I believe Senators BENNETT and CLINTON and DURBIN did.

Some have suggested that this constitutional amendment is necessary to honor our veterans. I think Senator SPECTER spoke eloquently on the point. I say, if we want to honor our veterans we should take care of our brave men and women in uniform who serve our Nation.

For example, just last week my good friend from Maine, Senator SNOWE, and I were able to get an amendment agreed to by the Senate which would make all prisoners of war who die in captivity eligible for the Purple Heart. Also last week Senator LIEBERMAN and I were able to get an amendment agreed to by the Senate improving the mental health screening and monitoring for members of our Armed Forces.

I think we honor our veterans and Armed Forces when we make sure that we are looking out for them, keeping our promises to them. Right now we are not.

We should provide them with all the equipment they need while they are deployed and all the health care they need when they come home.

Let's make sure our men and women have adequate body armor. Let's find ways to expand health care coverage for the members of the Guard and Reserves. Let's make sure the Veterans Administration is adequately funded to meet the needs of our veterans at a time when we are seeing horrific post-traumatic stress: suicides are up, divorces are up. These are the ways we honor our veterans.

We love the flag—yes. We love our veterans—yes. But I think we can do both without having to amend the Constitution.

I believe the flag is a beautiful symbol of the freedom and liberty on which this proud Nation has been built. The flag is a reminder of the democracy we all hold so dear in our hearts. When I see the flag displayed in an inappropriate way—I think Senator LAUTENBERG showed it—on underwear or on pajamas, I don't think that is respectful. But that is what we see every day. I don't like it, but, you know what, this Constitution is more than an outlet for our justifiable frustrations. This Constitution is more than just an outlet for our justifiable frustrations.

It is concise. It has worked. It is the enduring ideal of our Nation, and we should not unnecessarily amend it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, seeing a number of my colleagues on the floor, and I have talked to them, I ask unanimous consent that the following Senators be able to speak in morning business as follows, in this order: Senator SALAZAR for 5 minutes, Senators WYDEN and SMITH for a total of 10 minutes, and Senator DEWINE for 45 minutes.

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

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I rise to speak about the flag desecration amendment and talk about the nature of the debate we have seen in the Senate over the last 2 days. First, let me be clear. I support the amendment that came before the Senate today, and I just cast my vote for it. The American flag is a unique symbol of our heritage, our principles, and everything the citizens of this great country have done to sacrifice for it. I do not believe laws narrowly prohibiting the desecration of our flag in any way undercut the principles embedded in the first amendment.

However, it is important to emphasize certain points as we debate these issues. First, as is often the case when we consider whether to amend the Constitution, this is not a simple question. It is not a question that is cut and dried.

I understand the strong feelings of those who oppose this amendment. I understand their argument that the freedoms the American flag stands for, including the freedom of speech and expression, are as important as the flag itself. We must not separate the flag from the cherished principles that it represents.

In keeping with that concept, I believe it is wrong for proponents of the flag desecration amendment to question the patriotism of those who oppose it. Simply because Senator DURBIN, Senator MCCONNELL, Senator FEINGOLD, Senator BENNETT, and others oppose this amendment does not mean they believe the flag should be desecrated, nor does it mean that they view the flag as any less important a symbol. As anyone who has worked with these Senators knows, nothing could be further from the truth.

Finally, my support for this amendment is based on the premise that the flag is unique and deserves special protection. But for the same reason I believe the flag should be protected, I also firmly believe it should not be politicized for partisan gain. The American citizens who pledge allegiance to this flag, who believe in what it represents, and who live and work under it every day deserve better.

I also believe that we should be working as a Congress and as a Senate just as hard to strengthen our national and homeland security, improve our energy security, relieve the health care crisis that faces America's businesses and America's families, educate our children, and strengthen the American family.

I yield the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

OREGON STATE UNIVERSITY NCAA DIVISION I BASEBALL CHAMPIONS

Mr. WYDEN. Mr. President, in the midst of all the serious business that is before the Senate, I and my good friend from Oregon, Senator SMITH, wanted to take a few minutes tonight and talk to the Senate about the great pride and joy that Oregonians are feeling tonight as a result of our terrific Oregon State Beavers who have won the college world series.

Showing incredible determination, they would not give up spirit. After losing their first games in both the tournament and in the championship series, the players at Oregon State and the coaching staff came back. They came back to be the first team since 1998 to lose their first game and go on to win the college title.

Senator SMITH and I are especially proud because in this day of professional sports seeming to be part of every college environment, most of these players are from Oregon. They come from almost every nook and cranny of our State. They come from the Pacific Northwest, and they represent the best values of our State—particularly hard work and a sense that if you just stay at it and you are persistent, you can get the job done.

We want to salute all the players, and particularly three we are going to be losing—three star pitchers: Jonah Nickerson, Dallas Buck, and Kevin Gunderson. They are going on to play professional next season. But we are going to be back in that world series next year.

I get a chance, along with my colleague, to enjoy so much that makes our State special. We try to team up on a bipartisan basis on some issues. But we are particularly thrilled as Oregonians' two U.S. Senators to make sure that the country sees that when you work hard, you play by the rules, and you don't give up, nearly always good things happen.

Tonight, Oregonians are wearing the orange and black of the Beavers.

I want to yield the rest of my time to my friend and colleague because, as Oregonians' two U.S. Senators, we are savoring this moment along with more than 3 million people who represent our State. I yield the remainder of my time to my colleague.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH. Thank you, Mr. President.

I rise proudly with my colleague, Senator WYDEN. We are proud Oregonians every day but especially this day as we celebrate the great accomplishments of the Beavers of our State.

I suppose we are honorary members, neither of us having attended Oregon State, to be now members of ''Beaver Nation,'' as it is known locally.

These great players, these great young men, overcame all the odds to win the college world series and become the NCAA Division I Baseball Champions. In doing so, the Beavers not only brought home to OSU its first NCAA championship in any sport since 1916, they also became the first northern climate team to win the college world series.

We are very proud of them. They did it with a team full of young men from the greater Pacific Northwest, many of them from Oregon.

Under the leadership of their coach, Pat Casey, OSU made ''Beaver believers'' of many people—virtually all of Oregon. I think all of Oregon was tuned in yesterday to see their thrilling 3-to-2 victory.

While at the college world series in Omaha, they played eight games, and in six of those games they knew if they lost they went home. Well, they kept winning against all odds, and they come home to Corvallis, OR, champions of this great sport.

I suppose one of the things I look forward to is every year it seems as if an Oregon team gets to participate in what has become a White House tradition. That is when they meet with the President of the United States. I look forward especially this year to being able to not just congratulate the Oregon State University Beavers for this remarkable accomplishment, I look forward to escorting them with my colleague, Senator WYDEN, to the White House to meet America's No. 1 baseball fan, President Bush, for this great traditional ceremony of honoring the NCAA champs.

I stand before you, Mr. President, a ''Beaver Believer'' and thankful for the good job they did in bringing such distinction to our State.

Mr. WYDEN. Mr. President, Senator SMITH said it very well.

I wanted to wrap up by noting a comment from pitcher Dallas Buck, who was the winning pitcher in the championship game.

When asked about why he stayed at Oregon State instead of going pro out of high school, I quote: ''Best decision I ever made.'' And we happen to think that is the best decision a lot of young people are making in our State, to go to Oregon State University. It is a wonderful university, both for sports and academics.

We are going to salute them, as Senator SMITH has indicated, when we get a chance to join them at the White House with the President. That is what makes this so special for us.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

TRIBUTE TO DENISE WEISENBORN

Mr. DEWINE. Mr. President, today I commemorate a woman who dedicated her life to helping others: Denise Weisenborn. Living in Parma, OH, Denise was a lawyer and advocate of employment and independence for people with disabilities. Denise, who had muscular dystrophy, used a wheelchair all of her life, but never let that stop her from accomplishing her goals. Denise was 51 years old at the time of her death on May 2, 2006. She is survived by her mother Mary Lucille and her sister Diane.

Denise spent her entire life overcoming obstacles and then exceeding all expectations. Even though she was unable to attend school, Denise had tutors help her at home during her younger years. As a student at Maple Heights High School, Denise was able to take part in classes while she was home. In 1972, Denise graduated as class valedictorian.

She carried on this legacy of academic success by majoring in foreign languages at Cleveland State University, graduating summa cum laude in 1976. Denise then attended Cleveland Marshall College of Law, where she served as an interpreter and finished in the top 20 percent of her class in 1980. She passed the bar exam later that year. These accomplishments were just the beginning of the amazing things Denise Weisenborn would accomplish throughout her life.

Denise worked in Columbus as an education lawyer for Ohio Legal Rights Services, where she helped families of children with disabilities get the educational services they needed. She presented a federal case, Roncker v. Walter, in the U.S. Court of Appeals Sixth Circuit. Eventually, the severity of her disability made a 40-hour work week very difficult, and she moved back to Cleveland to be closer to her supportive family.

She continued to give her talents to help people with disabilities by serving on the Ohio Developmental Disabilities Council, the Governor's Council on People with Disabilities and the Ohio Rehabilitation Services Commission.

She also was an area representative for Assistive Technology of Ohio in the Cleveland area, where she developed medical equipment loan programs for medical goods and adaptive equipment, as well as compiling a directory of service providers.

Firmly believing that people with disabilities should be able to live independently, Denise moved from her parents' home to a federally-subsidized apartment building in Parma for people with physical disabilities and urged officials to build additional homes of this kind. Denise also called for home-based employment opportunities for people with disabilities.

She was a champion of a program called ''Choices,'' funded through the Ohio Developmental Disabilities Council, where volunteers provided encouragement and community support to people with disabilities who lived in nursing homes but wanted to live independently in the community.

Many people were skeptical that this program would work, but Denise believed in the project. As a result of her leadership, hundreds of Ohioans with disabilities are now living independently in community settings. Denise's advocacy has helped so many people in both their personal and professional lives.

Denise was a person of great faith, dedicating a substantial portion of her time to helping others in their own spiritual journeys. She demonstrated this commitment through her work with Rainbow Girls and the InterVarsity Christian Fellowship at college. She served as a counsel and Bible study leader for the Billy Graham Crusade in Cleveland and organized and led Bible studies for church youth. Denise once said, ''Of all my experiences, the one which has had the most profound influence on my life, and for which I will be eternally joyous, is the time I gave my life and opened my heart to my Savior, Jesus Christ. Much of my time each day is spent in talking to my Friend and studying His Word.''

Denise was a gifted lawyer. She volunteered her talents to non-profit agencies that helped people with disabilities. She served on the board of commissioners of a large state agency that helped people with disabilities. And she lobbied the state and federal government for the betterment of people like herself.

For all these efforts, this attorney with 26 years of experience earned about $5,000 per year. It is a sad irony that although Denise was learned in the law, it was the law—and not her disability—that kept her from earning a living. For Denise, however, having a low income was an act of survival. Denise's health care was covered by Medicaid. Denise had muscular dystrophy. It affected her speech; her voice was soft and quiet, making it difficult to hear her in a crowded room. She relied heavily on assistive technology for independence. She used a power wheelchair for mobility and operated her computer by pointing a laser at an on screen keyboard. She required 24-hour personal attendant care and too frequently her life was interrupted by extended and expensive stays in the hospital when her health declined.

Given the severity of her disability, there were no other options for her. The law in Ohio prevented her from earning more money without losing her health care. She was given a Hobson's choice—she had to choose between making a living and living at all.

This is why Denise Weisenborn spent the last years of her life fighting for a Medicaid Buy-In program in Ohio. These programs, allowable in States under federal law since 1999, give people with disabilities the right to earn more money, and pay premiums to the State to help cover their health care costs. Medicaid Buy-In removes the powerful, institutional disincentive for people with disabilities to work.

If Ohio had a Buy-In program, Denise Weisenborn could have been even more independent by earning a living, helping Ohio cover her health care costs, and paying taxes.

Simply put, she could have been a lawyer. It is the independence for which she fought and wanted so deeply, and it is shame that Ohio did not give her that chance before she passed away.

It is something that I think those of us who reside in Ohio should think about and consider. It would be a fitting tribute to her life for us to take the appropriate action in Ohio to change the status quo. and to give people like Denise the opportunity to move forward and to work and not have to give up the health care, not have to give up the support that enables them to live, not have to make the choice Denise had to make.

Denise Weisenborn led a full and personally enriching life. She fought for people with disabilities and their right to find and sustain employment and to live independently. She dedicated her life to service, and Ohioans with disabilities are much better for her efforts. They are much better for the fact that she lived.

Mr. President, I continue to keep the family and friends of Denise Weisenborn in my thoughts and prayers.

HONORING OUR ARMED FORCES

LANCE CORPORAL DAVID MENDEZ RUIZ

Mr. DEWINE. Mr. President, this evening, I come to the floor to pay tribute to a brave Ohioan, Marine LCpl David Mendez Ruiz, who was killed on November 12, 2005—the day after Veterans Day—by a homemade bomb while conducting combat operations in Iraq. He was only 20 years old.

Ronald Reagan once said:

> [S]ome people live an entire lifetime and wonder if they have ever made a difference in the world. The Marines don't have that problem.

The family and friends of David Mendez Ruiz will indeed never doubt the great difference this young man made in the world—both as a marine, as a friend, brother, and son.

David was the youngest of eight children, born to Maximiliano and Miriam Mendez. The family moved to the United States from Guatemala when David was 6 years old.

At David's funeral, the service began with the Guatemalan national anthem, followed by ''The Star-Spangled Banner.'' David had a profound respect for his roots and a great love and appreciation for the United States—the country for which he would eventually give his life. David's parents instilled in him at an early age a deep reverence and love for God and for his country.

David was baptized at and was a member of Cleveland's House of Praise and Prayer, where he was like a son to Eli and Amy Ramos, the church's youth pastors. Before leaving for his second tour of duty in Iraq, David gave Eli a sound system for his car as a gift to repay him for all the times he had spent with him through the years. He wanted Eli to remember him each time he listened to Christian music on his stereo. As Eli has said:

> That's the way it is. Each time I get into my car, and I put that music on really loud, I remember David. David was a youth full of life, and that is why we all fell in love with him.

Indeed, David was full of life and so dedicated to his faith. He regularly attended Sunday church services in Iraq, even though he was thousands of miles away from his home church.

Family and friends remember David as a friendly, honorable, compassionate, and courageous man. They describe his huge smile that hid his eyes and brightened a room upon his entry. David was known for having a heart that couldn't say no to someone in need and a love of God and a love of country that motivated him to join the Marines in the first place. David loved being a marine.

He had spent almost 8 months in Iraq, returned home, and broke his back during a snowboarding accident. After recuperating, David left to return to Iraq on the Fourth of July. At David's funeral, close friend Brandon Joffre, who went to high school with David at the Greater Cleveland Christian Academy in Middleburg Heights, told mourners that David had always dreamed of joining the service. This is what he said:

> He always wanted to be in the military, real hard core, definitely born to be a marine. That's the thing. He was killed, but he was killed doing something he loved.
>
> He wanted to be there. I expected to grow up and [have] our kids hang out [together], and I'd see him get married and all that. It's hard. Every time I see a picture of him with that smile, I want to cry.

Gillian Newman, a friend of David's Since elementary school, told those gathered at the funeral that she loved watching movies with David. They would have great fun trying to remember the lines from the movies, even months later. Most of all, she says that she loved his kind spirit. ''We could challenge him to a game of pool 150 times, and he could beat us every time and never say, 'I told you [so] .' ''

David's friend Brandon also shared that sentiment:

> David lived a very honorable life and accomplished a lot in such a short period of time. Words do not describe how proud I am of David. God had a plan for David's life, and David served him well. He was always happy, always had a smile on his face. He made friends everywhere he went.

Fellow Marine Marcial Rodriguez, wrote the following words about David:

> When I heard the news last November that U.S. Marine David Mendez Ruiz, a Hispanic immigrant from Cleveland, died in Iraq, my thoughts were a little strong. I felt pride, but at the same time, anger—pride because David was fulfilling a dream like many young people, to serve by fighting in the U.S. Marines. Even though some people criticized him, he kept serving his country.
>
> He lost his life without surrendering to anything, fighting for his country, for a just cause, with honor. I feel anger because many Hispanic young people like us struggle to give Hispanics a good name so that Americans don't think we only cause problems—so that Americans can see that we too, the Hispanic people, contribute our grain of sand, like David's sister Sandra said. . . . That's how David wanted to live his life—with pride, in peace.

Mr. President, and Members of the Senate, David demonstrated his commitment to service in so many ways, but his long record of awards speaks for itself. He received the Combat Action Ribbon, the National Defense Service Medal, the War on Terrorism Expeditionary Medal, the War on Terrorism Service Medal, and two Sea Service Deployment Ribbons. David also received the Purple Heart Medal.

David Mendez Ruiz was a young man who exemplified courage under pressure and who always strived to make life a little better for those around him. The Greater Cleveland Christian Academy has set up a scholarship in his memory, so that his legacy can live on through the education of other students. There is no better way to carry on the memory of this brave young American who lost his life while fighting to ensure that we can continue to enjoy freedom and opportunity.

Mr. President, David Mendez Ruiz is a true hero and proved his unwavering allegiance to the United States in the most selfless way—by giving his life in service to our country. My wife, Fran and I continue to keep David's large and wonderful family and his many friends in our thoughts and in our prayers.

Mr. President, I see my colleague on the Senate floor. I have about 10 more minutes.

STAFF SERGEANT KENDALL IVY II

Mr. President, this evening I would like to speak in honor of Marine SSgt Kendall Ivy II, a 28-year-old Ohioan who lost his life on May 11, 2005. He was killed by a roadside bomb while serving our country in Iraq.

Mr. DEWINE. Mr. President, I rise today to honor Marine SSG Kendall Ivy, II, a 28-year-old Ohioan who lost his life on May 11, 2005. He was killed by a roadside bomb while serving our country in Iraq.

A native of Galion, OH, Kendall was a well-known football and baseball athlete at Galion High School, where he graduated in 1995. He joined the military right after high school, applying these athletic skills of teamwork to the Marine Corps. After the military, Kendall was planning to continue his education and become a history teacher and coach.

Most important to Kendall was his family, consisting of his wife, Lee Ann, sons, Caleb and Harrison, daughter, Reagan, and parents, Raymond and Venita ''Kay'' Ivy. Additionally, Kendall is survived by three brothers, a sister, and their spouses: Kenneth and Charlotte Ivy, Kathy and Doug Shifley, Kevin and Michelle Ivy, and Keith and Becky Ivy. Lee Ann was 5 months pregnant with their son Gabriel at the time of Kendall's death.

Kendall and Lee Ann first saw each other in middle school. Lee Ann said that after she met him, she spent the greatest 14 years of her life. Kendall and Lee Ann got married young. Kendall once told her, ''What if we wait and then die in our late twenties? We would miss out on so much married life.'' Indeed, Kendall Ivy was a true family man. He learned of Caleb's birth when he was pulled out of formation on the flight deck of an aircraft carrier. Kendall loved his two boys, but the birth of his daughter changed his life, Lee Ann said. He was very much a family man and was looking forward to coming home and spending time with all of them.

Venita says that her son was ''destined to be a Marine.'' From the age of 3, he wanted to wear the gold eagle, globe, and anchor insignia of the Corps. He made that happen, becoming a staff sergeant while planning a career in the Marines. He served in the United States Marine Corps for 10 years. Venita said her son told her he ''wanted to serve this country, that we need to be over there in Iraq so they can be free like we are.''

Kevin Ivy also remembers his younger brother's dream of becoming a marine, saying:

> He lived life to the fullest. He was kindhearted. He loved his country. He loved his president. He believed in what he was doing. Each and everyone of these fine young men and women is in a dangerous situation. But my brother understood that, and he was willing to lay down his life for the cause of freeing these people.

Kendall Ivy was loved dearly not only by his family, but also by those who had the privilege to serve with him. Marine CPT Dave Handy wrote the following statement on an Internet tribute site to Kendall:

> I was then Staff Sergeant Ivy's platoon commander for a short time and remember him leaving the Marine Corps to seek new adventures. I was ecstatic to hear that such a fine leader of Marines had rejoined the Corps and then brought to tears to hear of his death. I remember him as a ruthless enforcer of standards, a superb example for young Marines, and a patient mentor for all around him. All officers should have been so lucky as to serve with enlisted leaders of Staff Sergeant Ivy's superior caliber. My thoughts and prayers are with his family and I look forward to seeing him again on the streets of heaven. Semper Fidelis.

On the same tribute site, Aric Wells of Nashville, TN, said:

> To my friend. To his wife and children. I am deeply sorry. To all who did not have the privilege of knowing Staff Sergeant Ivy, let me tell you that we have lost a great man. A man with morals and convictions that did not waver. A man who would give the shirt off his back to help you out. Staff Sergeant Ivy would go to bat for you when others would turn their backs. He was a damn good man and always a Marine. I will always remember him.

Indeed, Kendall Ivy was deeply loved by all those who knew him. At Camp Ripper, Iraq, a new gym was opened on August 1, 2005, named the ''Staff Sergeant Kendall H. Ivy II Memorial Gym.'' His presence is felt daily by those like SGT Johnny A. Noguera, the gym manager. Sergeant Noguera said:

> Everyone wants to make this place as nice as possible, especially for the Marines who knew Staff Sergeant Ivy. When I was growing up in South America, one of my father's friends had a son who was a Marine. He was so proud of him and he seemed to have this aura around him. That's how Staff Sergeant Ivy was and that's what I wanted to be. I know that many people miss him and they look at this gym as a direct reflection of their love for him. This is why I stress to the guys who work here to keep this place in order so we can properly pay homage to the man who it's named after.

The Marines who attended Kendall's funeral remembered going to the gym with him, then not being able to persuade him to leave. At the end of the workout, Kendall would then ask if his arms looked any bigger. Lee Anna says that her husband ''was worse than a woman about his hair and weight.''

To end, I would like to quote Sergeant Downing, who wrote a few words about Kendall on the Internet tribute site. He writes:

> I served with Staff Sergeant Ivy in Weapons Company, 1st Battalion, 6th Marines. Someone once said, 'the best compliment you can give is to say he was a good Marine.' Well, Staff Sergeant Ivy was a damn good Marine!

Kendall Ivy epitomized not only the meaning of a good Marine, but also of the ideal son, husband, and father. My wife Fran and I continue to keep the family and friends of SSG Kendall Ivy in our thoughts and prayers.

I yield the floor.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Illinois.

IRAQ

Mr. DURBIN. Mr. President, let me start by acknowledging my gratitude and respect for the Senator from Ohio for coming to the floor of the Senate at this late hour and telling these touching stories about these men and women who have served our Nation so well and have given their lives in service to our values and this great cause of making America safe. As of today, 2,524 of those stories could be told. That is the number of American service men and women who have died in Iraq as of today.

It is a day of special significance in my State of Illinois. We have reached the number of 100, 100 brave men and women from the land of Lincoln who have given their lives in service to our country, 100 Illinois families who have lost a loved one, a child, a parent, a spouse, a brother, a sister.

Abraham Lincoln, in the midst of the Civil War, consumed with grief over all of the death, said of those who died that they gave ''the last full measure of devotion.'' It is a reminder to all of us that when we discuss policy in the Senate, it does not always have a direct impact on the lives of those we represent. But when we vote on foreign policy, on the issue of war, we are making decisions that cost lives. We should never forget that. That is why this is more than just another job or another profession. This is, indeed, an awesome responsibility.

Last week we completed the debate on where we will go in Iraq. It was not

conclusive. Two amendments were offered and neither were adopted. Basically, the Senate took no position, at least the majority of the Senate took no position as the debate came to a close. But it was interesting, the tone and tenor of that debate. How many times on the floor of the Senate did we hear from the other side of the aisle the phrase ''cut and run''? It was part of a recurring mantra. I don't know how genuine it was—I assume it was—or if it was generated by a focus group as just the right combination of words to criticize those who would suggest we need a different approach and a different plan in Iraq. But after all of the chest thumping and the ''bring them on'' rhetoric, the sad reality is that our debate ended and the war continues.

But then something very interesting happened. After we had considered an amendment offered by Senator CARL LEVIN and Senator JACK REED which suggested that we should start withdrawing troops this year, moving toward a timetable, a day when our troops would come home, after that amendment was defeated on basically a partisan rollcall—there might have been one Republican joining us, but basically it was a partisan rollcall—after that amendment had been criticized as a cut-and-run, retreat amendment, something interesting occurred: The top U.S. commander in Iraq, General Casey, announced shortly after the Levin-Reed amendment was defeated that, in fact, we would redeploy as many as five to six U.S. combat brigades by the end of this next year and that he plans to begin drawing down forces in just a few weeks.

General Casey is offering a plan that in many ways looks very similar to the Democratic proposals. Yet when we proposed initiating redeployment this year, the Republican majority accused us of cutting and running from our responsibilities in Iraq. General Casey's plan does not call for total withdrawal, neither did the Democratic alternatives. Senators LEVIN and REED wanted to begin redeployment this year and continue without a specific time line for completion but clearly putting the burden on the Iraqis to defend themselves.

I also supported the Kerry-Feingold amendment calling for redeployment of the bulk of U.S. forces by July of next year, 12 months away. Some said 12 months is too soon; 12 months is not enough time.

What has happened in the last 12 months in Iraq? In the last 12 months we have lost 762 soldiers. We have seen more than 2,000 come home with serious injuries. We have spent nearly $90 billion. It isn't just 12 months on the calendar. It is 12 months of living and dying and being injured and asking the American people to continue to sacrifice for that war effort. So 12 months is an important and significant period of time.

The amendment by Senators KERRY and FEINGOLD called for the continued presence of forces, if needed, beyond July of 2007, for training, counterterrorism, and to protect U.S. personnel, along with a substantial U.S. military presence still in the region. They also suggested we consult with the Iraqi Government about the future of our troops.

It is interesting that these amendments and General Casey's plan share several themes. First, we need a timeline for redeploying U.S. forces.

Second, redeployment does not mean total withdrawal.

Third, the shared objective of all plans is accelerating and expanding the handover of leadership to the Iraqis themselves.

So many people criticized the Democrats at the end of last week that we didn't take a position. It turns out the position we took in both amendments was consistent by and large with the proposal of General Casey.

I believe this is less about setting deadlines than about establishing timelines. We need to move toward a trajectory, a course of successfully handing over the security of Iraq to the people of Iraq. We have given them so much.

This is the fourth year of this war. By the end of this calendar year, it will have lasted longer than the Korean war and, a few months beyond that, longer than World War II. We have given a lot: Over $300 billion; over 2,500 American lives; 18,000 seriously injured soldiers; 2,000 returning with head injuries that they will have to cope with for the rest of their lives. This is the reality of war, and this is the contribution given by the American people to the nation of Iraq to give them a chance to depose a dictator, to allow free elections, to allow them to debate and create a new government.

But in the end, we can't do it all, and we shouldn't do it all. There has to be a will within the Iraqi people to stand up and defend themselves. They have to understand that if their nation is worth having, it is worth fighting for. They have to resolve their internal difficulties, and they have to stand together to fight off any potential enemies who would invade them in the future. That is the reality of real governance and real responsibility. That is why many of us believe that this debate ended last week without a conclusion. The message was not sent to the Iraqi people to accept the responsibility for their fate. But General Casey's proposal at least moves in that direction. I am glad those of us who voted last week for both the Kerry-Feingold amendment and the Levin-Reed amendment are in concert with General Casey in the belief that this must come to an end and soon.

Then over the weekend something extraordinary happened. New Iraqi Prime Minister al-Maliki proposed a plan to try and unite Iraq's ethnic and sectarian factions. He knows the violence has taken a terrible toll. Last week the Los Angeles Times released a study that said more than 50,000 innocent Iraqis have died a violent death in the last 3 years. The article suggested that maybe there were many more.

The statistics came from the Baghdad morgue, the Iraqi Health Ministry, and other sources. But for a variety of reasons, the death toll is probably undercounted. Iraqis have died in uniform, killed by insurgents. Others have died waiting in line at a market. Still more have died along roadsides and in terrible, desperate places in the dark of night where they have been taken in by militias and murdered. The majority of bodies at the morgue are those of civilians, and the vast majority have been shot gangland-execution style. Many have been savagely tortured.

In many cases, the cities of Iraq have been the battleground in struggles between the U.S. and Iraqi Government forces against the insurgents and foreign terrorists and among Iraqis themselves. Civilians have been caught in the crossfire, innocent people whose lives are in danger and extinguished in the crossfire of this insurgency.

Recently a group of my constituents came to visit me. They knew of people living in Ramadi, and they know there is an effort under way to try to calm that area and to remove the insurgency. The people who came to see me in Springfield, IL are very concerned about the plight of innocent people who were stuck in the middle of this crossfire. Ramadi is the largest predominantly Sunni city in Iraq. It is the capital of Anbar Province, one corner of the Sunni Triangle. Over 900 American service men and women have been killed in that province. A corporal with the First Armored Division was killed there on Monday.

Anbar has seen far too many deaths. U.S. and Iraqi forces are moving neighborhood by neighborhood trying to take control of the city. Many civilians have fled but an unknown number remain.

Newspaper accounts describe ''a post-apocalyptic world: row after row of buildings shot up, boarded up, caved in, tumbled down.'' Our generals have repeatedly stated that there will not be another frontal Fallujah-style assault of Ramadi. Our forces have encircled the city and are trying to retake it one neighborhood at a time. The goal is for Iraqi forces to remain in the city, to allow it to return to some kind of normal economic life, and to keep the insurgents from simply retaking the neighborhoods.

Those are worthy goals, and it is critical to their success that the civilians of Ramadi feel that they can stay and be safe in their city. Ultimately, it is the Iraqi people and their leaders, their armed forces and police, who will have to end this cycle of violence.

Prime Minister al-Maliki is trying to find a way out. In looking at the terrible waves of death in Iraq, though, it is the deaths of over 2,500 American service men and women that touch my heart.

As the Prime Minister searches for a way to end the insurgency, we have to make it clear that his plans for reconciliation cannot rest on the foundation of amnesty for those who killed our brave soldiers.

In his plan, the Prime Minister stated there might be amnesty for insurgents ''not proved to be involved in crimes, terrorist activities, and war crimes against humanity.''

Now, the President has to make it clear to the Iraqi Government that they cannot erase the killing of Americans as they try to sketch out this reconciliation plan.

I asked on a weekend show—when I was on one of the Sunday morning shows—what would you think of a plan that said if you killed an American soldier, you could be given amnesty? It would trouble me greatly, when I think of those soldiers of ours who have died for the people of Iraq. It would trouble me as much, if not more, if I had a son or daughter in uniform over there, realizing that they basically announced that it is excusable to shoot and kill an American soldier. We cannot allow that to happen.

The Iraqi Government faces a difficult road ahead. We have to continue to help them. We need to also step up the effort to make the Iraqis responsible for their own future. Some have said we must stay and finish the job, but the simple fact is it is not our job to finish. It is for the Iraqis to finish the job.

The Senate overwhelmingly called for 2006 to be a year of transition in Iraq. That transition must be to Iraqi leadership and responsibility. That is how we can truly announce that our mission is accomplished.

HIGHER EDUCATION ACT EXTENSION

Mr. DURBIN. Mr. President, most Members of Congress come to this life experience with previous life experiences. Many times, they are motivated by something that they have lived through or witnessed. I have seen it time and time again, whether we are talking about a commitment to help certain people, such as the disabled, or to cure a certain disease, whether it is mental illness or cancer or heart disease; you find that many of our colleagues in the Senate and the House really rise to the occasion and show great devotion and commitment to these issues because they have seen them, they understand them.

Well, we all come here with many life experiences. The one that I had as a young man was repeated many times over. After growing up in East St. Louis, IL, and going for a year to a good university, St. Louis University, I decided I had to go out of my home, go away to school. That is what college was all about. I went home to my mom who was a widow at the time, and told her of my plan.

She said: How could you afford it?

I said: Don't worry, I have it all under control.

Well, Mr. President, I was making it up. I had no idea how I was going to pay for it. I went to school here in Washington, at Georgetown University, and worked hard during the school year and the summer and saved up money to help pay expenses, and I also took out student loans.

Were it not for the National Defense Education Act, I could never have finished college and law school. I didn't have any wealth, my family didn't either, so I had to borrow the money. It was early in the 1960s and this program had just gotten started. There were kids all over America like myself who used those student loans to make it through college and professional school. I remember my wife and I were married when I was still in law school, and when I graduated they accumulated all of the student loans that I had borrowed in my entire college career and sent me this ominous letter to tell me that a year after graduation I had to start paying it back, one-tenth of all those loans plus 3 percent every year, without fail. I opened that envelope with great trepidation and saw that total amount and didn't know how I could possibly do it. I told my new wife, holding our new baby, that we faced a student loan debt that needed to be paid off over 10 years, and that debt was $6,500.

Every time I tell that story to college students now, they break out laughing at hearing $6,500. Now many of them have to borrow that for a semester. Many years ago, it seemed like a daunting task. Luckily, we met the challenge and paid off the loan. I have been watching student loans ever since because I understand for many students today they are still the ticket to an education.

Last Friday, the Higher Education Act was extended for the fourth time since last year.

I hope that by extending it 3 more months we will be able to work on meaningful legislation that will make it easier for students and parents to pay for a college education.

Earlier this year, Members on the Republican side of the aisle passed a so-called deficit reduction bill that cut $12 billion from student aid—the largest single cut in financial aid programs in the history of the country.

Although most of the $12 billion came from reducing the maximum yield private lenders could earn on loans, it also came from raising the interest rates on many of the loans parents take out for their kids' education.

Right now, students are scrambling to consolidate their loans in order to lock in a low interest rate. Do you know why? July 1 is the deadline. Beginning then, students who are still in school will no longer be able to consolidate their loans at lower interest rates because of changes made in the deficit reduction bill. The low interest rates, incidentally, will be gone.

We had an opportunity, with that change, to make a real investment in our children's future. Knowing that interest rates on student loans were about to jump from 5.3 percent to 6.8 percent for students, and from 6.1 percent to 8.5 percent for most parent borrowers, we could have made a real impact and taken the savings from the Deficit Reduction Act on student loans—$12 billion—and helped the students and their parents. Would that not have been a wise investment in our future? If we are not going to help students finish their college education to become the leaders of tomorrow, are we really preparing for our future?

Sadly, the Republican majority took the $12 billion in savings from the college student loan program—money taken out of the program—and instead of giving it back to the students to help them get through school, they put the money in a fund to help pay for tax cuts for the wealthiest people in America. That is the most upside down logic in the world—to turn our backs on our young people who are struggling to pay off student loans for education and to say instead that the multimillionaires will receive a more generous tax break. That is what the leadership in Congress believes to be the highest priority. Not many families in America agree.

The smart, hard-working students deserve a chance to get some help. But the Republican majority let them down.

In April, I introduced a bill called the Reverse the Raid on Student Aid Act of 2006, to change that. The bill would increase the Pell grant and turn it into a mandatory spending program, with automatic annual increases; cut student and parent loan interest rates by 50 percent; and allow students to consolidate their loans while they are still in school. It would take the money given to the wealthiest in tax cuts and give it back to the students, to make college more affordable and to make the debts they face after graduation more manageable.

The maximum Pell grant award has been frozen at $4,050 for 4 years. The President, once again this year, proposed keeping the award at the same level, $4,050, even though the total cost for tuition, fees, room and board at 4-year public universities has increased by 44 percent since President George W. Bush came to office. As the cost of college education has increased 44 percent, he has frozen the grants—Pell grants—for those kids from struggling families who are trying to get a college education, which means they either postpone their education, give up on their education, or borrow more money in student loans. Is that any gift to America? Is that looking forward?

Twenty years ago, the maximum Pell grant for low-income and working families covered about half—55 percent—of the average cost of attending a 4-year public college. Today, it is down to 33 percent. That is more and more debt on students and their families.

My bill would cut the scheduled interest rate increase. The average student debt of $17,500 has increased by more than 50 percent over the last 10 years. When students decide to take out a student loan, they are making a decision that can affect their lives for years and years beyond graduation. In some cases, a loan payment may be as high, or higher, than the amount they pay for rent or to buy a car.

Large debt burdens can keep graduates from entering fields they really want to enter and force them to go for the biggest paycheck.

A public interest research group recently said that more than a third of borrowers who graduate from private, 4-year colleges would face an ''unmanageable'' debt on a starting teacher's salary, meaning they would need to set aside more than 8 percent of their pay to cover the student loans, diminishing the likelihood that they would become a teacher. Other significant life choices, such as buying a home or a car or starting a family or even a marriage may be delayed because of high student loan payments that are made worse by the policies of this administration and this Republican Congress.

My Reverse the Raid on Student Aid bill reflects the type of serious investment I believe we have to make to ensure the future success of our young generation.

Students who are qualified to go to college, students who want to go to college, students who can make valuable economic intellectual and cultural contributions to America by pursuing higher education should not be kept away from school because they don't have the money. These students have our future.

If we want to move ahead in a global economy, we are not going to do it by importing talent from overseas. We have home-grown talent in America. This is a land of opportunity so long as we create the opportunity in schools across America, including our colleges and universities.

The policies on student loans pushed by this Bush-Cheney administration go in the wrong direction. An investment in our kids' education—and this is an old cliche, but it is true—is an investment in our future. The best thing we can do is make sure higher education is accessible, and whenever the higher education reauthorization bill is considered by the full Senate, I hope we will have an opportunity to debate what happened to student financial aid.

Lots of Members of Congress are going to hear from these students and parents when they realize after July 1 what has been done to them. We cannot continue to place the burden of paying for tax cuts on the backs of students and their families. It is not fair to them, nor is it the right thing to do for the future of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

ASBESTOS REFORM

Mr. SPECTER. Mr. President, I have 5 minutes allotted to me. I spoke yesterday extensively on the pending legislation, and I will use my 5 minutes on another subject.

The subject relates to an article in the Hill newspaper today, which is captioned, ''Holtz-Eakin Delivers Blow on Asbestos.''

Dr. Holtz-Eakin had been Director of the Congressional Budget Office and had testified at an earlier hearing on asbestos reform that the cost of the program would be between $120 billion and $150 billion, which was within range of the $140 billion allocated to the trust fund. But Dr. Holtz-Eakin later went to work for a foundation that was funded with $5 million by AIG Insurance Company and other insurers, where they had a vested interest in trying to defeat the bill.

I have today written to the Hill and want to make these comments for all of my colleagues to hear. They can be most succinctly handled by my reading the letter that I am sending. It goes to the editor of the Hill:

Dear Editor:

Your June 27 article ''Holtz-Eakin Delivers Blow on Asbestos'' would have been more accurately captioned, ''Holtz-Eakin Tries to Change his Testimony after Being Hired and Paid by the Bill's Opponents.''

The fact is, as the notes of testimony disclose, Dr. Holtz-Eakin did not change his testimony when he said:

''The first statement, when I was Director of CBO, remains true today.''

In an earlier statement, which he submitted when he was Director of CBO, he said:

''CBO expects the value of valid claims likely to be submitted to the fund over the next 50 years can be between $120 billion and $150 billion.''

That conclusion puts the cost within the reasonable parameters of the $140 billion trust fund.

Dr. Holtz-Eakin made an unsuccessful effort to say that the trust fund would not be terminated, as provided for in the legislation, if the trust fund ran out of money. Dr. Holtz-Eakin conceded:

''The administrator will have the option to terminate the fund. . . .''

Then Dr. Holtz-Eakin speculated:

''It is my judgment and my judgment alone that in the future Congress would continue this program. . . .'' That would obviously require a changed congressional decision since the bill stipulates the fund would be terminated if it ran out of money. It is only Dr. Holtz-Eakin's speculation that the program would be continued and then spend more money.

The Hill article correctly noted that Dr. Holtz-Eakin's effort to change his testimony arose because he:

''became the head of a think tank funded by a foundation set up by one of the biggest opponents of asbestos reform bill, American International Group, an insurance giant better known by its acronym AIG.''

The Hill article then noted that Dr. Holtz-Eakin was invited to the Judiciary Committee hearing by the opponents of the bill and that the ''Coalition for Asbestos Reform,'' an organization funded by major insurance companies opposed to the bill, issued a press release on the day of his testimony claiming he was validating the Coalition's criticism. Obviously, it was pre-arranged between Dr. Holtz-Eakin and the Coalition since the Coalition had information in advance and was prepared to make the announcement in a press release the day of his testimony.

Anyone, including the Coalition, can raise any objections they wish, but they ought to disclose the basis for Dr. Holtz-Eakin's effort to defeat the legislation because he, as The Hill pointed out, ''became the head of a think tank funded by the insurance company opponents of the bill.''

Dr. Holtz-Eakin's bias and conflict of interest renders his later testimony meaningless. It all shows how desperate the ''Coalition for Asbestos Reform'' is and how the Coalition is grasping at straws and buying testimony to try to defeat this important reform legislation.

And then I signed the letter.

I ask unanimous consent that the Hill article and the relevant points from the transcript be printed in the RECORD.

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

[From the Hill, June 27, 2006]

HOLTZ-EAKIN DELIVERS BLOW ON ASBESTOS

(By Alexander Bolton)

Douglas Holtz-Eakin delivered a significant blow against the effort to revive asbestos-reform legislation when he testified earlier this month that a cost assessment of the measure he had provided in November as director of the Congressional Budget Office (CBO) was unrealistic.

Some say that the testimony was a surprising reversal, but others note that since leaving the CBO Holtz-Eakin has taken a position created by a $5 million grant from a source adamantly opposed to the controversial legislation.

Holtz-Eakin is highly regarded on Capitol Hill, attracting praise from both sides of the aisle. But the funding of his organization has raised some conflict-of-interest concerns about his views on the pending asbestos-reform bill.

Senate Judiciary Committee Chairman Arlen Specter (R–Pa.) is pushing to bring the bill to the floor for a vote, but Senate Majority Leader Bill Frist (R–Tenn.) has said he will not do so unless it clearly has enough support to pass. A previous effort by Frist to pass the legislation fell a few votes short this year.

As CBO director, Holtz-Eakin testified to the Senate Judiciary Committee that a trust fund that would be set up by the bill to pay asbestos-related medical claims would have little effect on the federal budget.

But when he appeared again before the committee seven months later, Holtz-Eakin compared the trust fund to three of the largest mandatory government programs, Social Security, Medicare and Medicaid, and declared that now is ''a particularly bad time'' to start such a new program.

Critics of the Specter legislation have criticized it as a costly program that could significantly add to the deficit years down the road.

At the beginning of this year, Holtz-Eakin became the head of a think tank funded by a foundation set up by one of the biggest opponents of the asbestos-reform bill, American International Group, an insurance giant better known by its acronym AIG.

AIG is one of several entities that have poured tens if not hundreds of thousands of dollars into an effort to defeat the asbestos reform bill, according to internal industry documents.

AIG also created the charity organization that endowed a think tank, the Maurice R.

Greenberg Center for Geoeconomic Studies, named after AIG's longtime chairman, that Holtz-Eakin now heads.

Holtz-Eakin has become a pivotal player in the behind-the-scenes battle to bring asbestos reform back to the Senate floor because of his residual authority as Congress's former chief accountant. Holtz-Eakin's damaging testimony on the asbestos bill was widely reported.

And the Coalition for Asbestos Reform, an alliance of corporations that oppose Specter's asbestos-reform bill that is lobbying senators on the issue, has pounced on Holtz-Eakin's words as support for their position.

''The testimony of former Congressional Budget Office Director Douglas Holtz-Eakin validates the criticism that the Coalition for Asbestos Reform has made for many months about a federal trust-fund approach to the asbestos litigation situation,'' the coalition announced in a press release the day of the testimony.

Specter said at the hearing that there was ''a 180–degree difference'' between what Holtz-Eakin estimated the program would cost as CBO director and his subsequent comment that its cost was highly uncertain. The first time Holtz-Eakin testified it was at Specter's invitation as CBO chief. The second time he was invited by an opponent of the bill, though it is unclear which member sought his testimony.

The coalition, which is funded in part by AIG, identified Holtz-Eakin as an important figure in a planning document it drafted in December. The document quoted Holtz-Eakin's testimony the previous month on the trust fund and suggested portions that could be used to undermine the bill by questioning the accuracy of CBO's cost estimates and bolstering the credence of much-higher-cost projections.

The planning document also identified AIG as one of the nine biggest funders of the Coalition for Asbestos Reform, along with other major insurance firms: Allstate, Hartford Insurance, Liberty Mutual and Nationwide Insurance.

AIG's founder has also provided the bulk of the funding for the geoeconomic-studies center that Holtz-Eakin now heads. The center was endowed with a $5 million grant from the Starr Foundation in 2000, according to the publicly available 990 form that the foundation submitted to the Internal Revenue Service.

The foundation, in turn, was established by AIG's founder, Cornelius Vander Starr. It earned nearly $50 million by selling 470,000 shares of AIG in 2000, according to the tax form.

Ken Frydman, foundation spokesman, said the group had no role in hiring Holtz-Eakin to head the Greenberg Center.

Specter asked Holtz-Eakin at this month's hearing if the difference between his earlier and later testimonies was ''attributable to [his] position working for the Greenberg Center.'' But Specter did not discuss the sums of money involved, and news accounts of the hearing did not report Specter's concern.

''I receive no funds from AIG, and my views today are my own,'' Holtz-Eakin replied. The former CBO chief said that he is merely director of the Greenberg Center and that he is ''funded by the Council on Foreign Relations.'' ''And my funding is from the Paul Volcker Chair in International Economics,'' he added.

The council, too, has received substantial funding from the Starr Foundation. The council has received $27 million in grants from the foundation since 1960, said Anya Schmemann, the Council on Foreign Relations' spokeswoman.

Holtz-Eakin defended his conflicting testimony in a recent interview. He said that as CBO director his job was to put a price tag on legislation, not to give his opinion of bills. He also said that his recent assessment questioning the certainty of the CBO's cost estimates was a personal opinion, something he was not allowed to give as CBO director.

''CBO doesn't take positions; it prices bills,'' he said. ''My personal opinion is that you can't take this bill at face value. I think a future Congress will change it.''

Holtz-Eakin said he was required as head of the CBO to take the asbestos-reform bill at face value and assume that the program would sunset when it ran out of money, thereby sparing taxpayers its cost. But as a private citizen, Holtz-Eakin said he is now free to express his opinion that that scenario is unlikely because Congress would rather pay to keep it afloat then let it close.

''These are my views,'' he said. ''I didn't know that Maurice Greenberg had an opinion on the bill.''

The Chairman. We now go to the five-minute rounds by members.

Let me begin with you, Dr. Holtz-Eakin. I am a little surprised by the difference in your testimony today from the materials submitted by you when you were Director of the Congressional Budget Office.

The statement which you submitted as head of CBO said, ''CBO expects the value of valid claims likely to be submitted to the fund over the next 50 years can be between $120 billion and $150 billion.''

In the written statement which you submitted for today's hearing, you say, ''Both the scale of the mandatory spending and the size of the revenues are highly uncertain.''

There is a 180-degree difference between what you and now attributable to your position working for the Greenberg Center, and in effect, AIG?

Dr. Holtz-Eakin. Let me do those in reverse order. First, I am the director of that center. I am funded by the Council on Foreign Relations. My funding is from the Paul Volcker Chair in International Economics. I receive no funds from AIG, and my views today are my own.

The Chairman. Well, let us take up your own views, if you are not influenced by these other factors. How do you account for the statement that you make here that there is mandatory spending, and how do you account for the fact that you say ''a future Congress and administration are guaranteed to turn to the taxpayer. How can you say that?

Dr. Holtz-Eakin. Let me explain. The first statement, when I was Director of CBO, remains true today. It is the case that this will be mandatory spending in the Federal budget. It will not be subject to appropriation. It will fit every common-sense definition of mandatory spending.

The Chairman. It is mandatory until it runs out, Dr. Holtz-Eakin.

Dr. Holtz-Eakin. It will be the case that the legislation provides for a sunset—that is what I said, . . . and that remains true today—automatic, or at the discretion of the administrator, depending on the eyes of the——

The Chairman. Well, is there mandatory spending after the fund runs out?

Dr. Holtz-Eakin. There is a program in place that requires money to be spent.

The Chairman. Wait a minute. Does it require——

Dr. Holtz-Eakin. My judgment——

The Chairman. Wait a minute. Does it require the money to be spent or does it require Congress to act? Now, you say in your oral testimony here, ''there will be political pressure to spend'' and you challenge the Congress on any fiscal restraint.

How can you say what a Congress in the future will do? Congress will not be obligated to spend the money once the $140 billion is gone, will it?

Dr. Holtz-Eakin. The administrator will have the option to terminate the fund, is my reading of it. We can debate whether you think that is correct reading. It is my judgment, and my judgment alone, that in the future Congress would continue this program and an administrator would have an enormous technical difficulty in sunsetting it at the appropriate time. It would be very hard to * * *

100TH ANNIVERSARY OF MINDEN, NEVADA

Mr. REID. Mr. President, I rise today to commemorate a historic and important event in Nevada. On July 2, 2006, the town of Minden will celebrate its 100th anniversary.

Located in the scenic Carson Valley, Minden is known for its beauty. The Carson Valley Mountain Range provides an imposing, but beautiful, background for the small community of 7,500. Minden is widely known for its small town charm because the town was mapped and planned before a single brick was laid. Visitors and residents of Minden can see the planning even today in the neatly laid streets and buildings. Minden retains its turn-of-the-century feel, and most of the original architecture is still evident in the town.

Like other communities in the Carson Valley, Minden was founded as a result of the railroad. In 1905, the Virginia and Truckee Railroad explored possible locations to expand their rail line. Heinrick Frederick Dangberg, offered to donate land from the H.F. Dangberg Land and Livestock Company for the expansion. The railroad accepted his offer, and Dangberg submitted a plan for the new town to the Douglas County Commissioners in 1906. In choosing a name for the new town, Dangberg honored his birthplace near Minden, Germany.

The Virginia and Truckee Railroad carried gold and silver from the famed Comstock Load in Virginia City, NV. But by the time of their proposed expansion in 1905, the railroad began to look for new sources of revenue. They found a lucrative revenue source in transporting livestock, and the new branch of the railroad that ran through Minden became the main shipping route for livestock going from San Francisco to Chicago.

With the railroad and other businesses in the town, Minden and the neighboring community of Gardnerville became the center of commerce for the Carson Valley. In 1915, there was a growing sentiment to move the courthouse from Genoa to a more populated area. More than 150 people from the Carson Valley traveled to the state capital to see the Nevada Senate vote to move the county seat to Minden. With the completion of a new courthouse in 1916, Minden replaced Genoa as the county seat of Douglas County.

In 1925, one of the most famous Minden residents, David Derek

Stacton, was born. Over the course of his life, Stacton won wide acclaim as an author and a poet. He was honored as a Guggenheim fellow in 1960 and 1966. Although he passed away at the early age of 41, Stacton left us many critically acclaimed histories on subjects from Napoleon to Nefertiti.

By 1950, the Virginia and Truckee Railroad was struggling, and the operation was closed down. For a town that grew out of the end of the railroad line, this loss was a big change for the community. The people of Minden met this challenge, and other industries soon came to Minden, many of them high-tech firms from California. Among those companies was Bently Industries, the maker of vibration monitoring equipment. Today, a steady wave of high-tech companies continues to relocate to Minden and Douglas County.

This small town—which got its first traffic light in 1985—has managed to move itself into the 21st century, without losing its historic charm. Every June, thousands of Nevadans travel from all over to take part in the Carson Valley Days. Cohosted by Minden and Gardnerville, Carson Valley Days is an annual event with a parade, carnival, live music, truck pull, and arts and crafts. This historic event was started in 1910 by H.F. Dangberg, and it is now in its 96th year.

Mr. President, I am proud to have a town like Minden in my home State, and I congratulate the people of Minden on their 100th anniversary. I encourage all my colleagues in the Senate and all the people of this great country to experience this beautiful and historic part of Nevada.

SALUTING EUNICE KENNEDY SHRIVER

Mr. HARKIN. Mr. President, the first ever USA Special Olympics National Games will open this Saturday in Ames, IA. Looking ahead to this remarkable gathering of athletes, coaches, and family members from all across America, I want to salute the vision and leadership of Eunice Kennedy Shriver, the founder and honorary chair of Special Olympics International.

No individual in the world is more respected and admired for her tireless advocacy on behalf of people with intellectual disabilities. For four decades, Eunice has pursued this advocacy with her trademark passion and tenacity. As executive director of the Joseph P. Kennedy, Jr. Foundation, she has been instrumental in establishing the National Institute for Child Health and Human Development, as well as a network of mental retardation research centers at major medical schools across the United States.

In 1968, she established her most enduring legacy, the Special Olympics. Starting in Eunice's own backyard as a day camp for children with mental retardation, it has grown into a global movement that serves more than 2.2 million adults and children with intellectual disabilities in more than 150 countries.

Mr. STEVENS. Mr. President, will the Senator from Iowa yield?

Mr. HARKIN. I would be happy to yield to the distinguished senior Senator from Alaska.

Mr. STEVENS. Mr. President, as the Senator from Iowa knows, I am a longtime supporter of the Special Olympics, and a longtime friend and admirer of Eunice Kennedy Shriver and her work. This remarkable American is a fine example of President Reagan's observation that you don't have to be on the public payroll in order to be an outstanding public servant.

Anchorage, AK, was proud to host the 2001 Special Olympics Winter Games, which was the largest sporting event ever held in Alaska. In conjunction with that Special Olympics event, I chaired a Committee on Appropriations field hearing on promoting the health of individuals with intellectual disabilities. This was the first hearing of its kind devoted exclusively to the needs of people with intellectual disabilities.

Mr. HARKIN. Mr. President, I am well aware of that historic hearing. This Saturday in Ames, I will chair a field hearing of the Labor/HHS/Education Appropriations Subcommittee, which will essentially be a followup and update on the Senator's hearing in Anchorage 5 years ago.

And let me just echo the Senator's observation that Eunice Kennedy Shriver, in a voluntary capacity, has been one of America's great public servants. Public officials in Washington have the persuasion of power, but the gentlewoman from Massachusetts has the power of persuasion. She has used that power brilliantly to advance the well being of people with intellectual disabilities all across the world. And I share with the Senator from Alaska and all of our colleagues in the Senate a deep respect and appreciation for Eunice Kennedy Shriver's lifetime of service.

DEFENSE AUTHORIZATION

Mr. LIEBERMAN. Mr. President, I rise to laud the Senate's unanimous approval of a $517.6 billion blueprint for the Nation's Armed Forces that expresses Congress's support for the necessary tools for our military fighting throughout the world.

It is critical that our military invest more resources for training, weapons, and technology to meet the new demands placed on it by the war on terror. We need to keep investing in our defense programs that have worked well in the past. We must also make sure that we provide enough resources for research and development, which will ensure that our servicemen and servicewomen are equipped with the best weapons possible. I wish to express my pride in the many Connecticut defense companies and skilled workers that meet both of these critical demands. Last year, I successfully fought efforts to close Submarine Base New London, because closing the base would have been a threat to our national security and would have put the most skilled defense workers in the world out of work. These irreplaceable workers are key to promoting our national security and developing important innovations that will help protect the lives of our military personnel.

I would like to highlight several provisions of the bill that I believe merit emphasis. Particularly important are additions to submarine design programs and construction at U.S. Submarine Base New London. They provide $75 million in additional funding for submarine design, $65 million for improvements to the Virginia class submarine and $10 million to begin design for the replacement of the nation's Ohio class ballistic missile submarine. This addition will help submarine designers at Electric Boat in my home State of Connecticut. The inclusion of $9.6 million for a small craft maintenance facility is also a critical step in upgrading the submarine base.

I am particularly heartened by the adoption of an amendment I worked on with Senators BOXER, KENNEDY, and CLINTON to ensure that our soldiers receive the mental health care they need and deserve. The amendment creates a detailed and comprehensive screening process to assess the mental health status of individual soldiers before they are deployed to combat zones and ensures that a soldier who is determined to have symptoms of a mental health condition will be referred to an appropriate qualified mental health care professional for further evaluation. It also mandates timely access to mental health services if requested by a member of the armed forces before, during, or after deployment to a combat zone—within 72 hours after making the request or as soon as possible and requires consent from a qualified mental health care professional before a soldier deemed to have a duty-limiting mental health condition is sent to a combat zone.

We introduced this amendment to protect the health and safety of servicemembers and their units—similar to the ones The Hartford Courant has written about. The military mental health amendment has two purposes. First, it is meant to keep these courageous young men and women out of the way of any further harm. Second, we must make certain that our units have the strongest and healthiest soldiers and this amendment moves us in the right direction.

I also cosponsored an amendment that enables the Air Force to enter into a multiyear contract beginning in fiscal year 2007 for 60 F–22 aircraft over 3 years. Moving to multiyear contract will save American taxpayers more than $250 million.

To ensure military families do not have to face the burdens of rising pharmaceutical copays for TRICARE next

year, I cosponsored an amendment with Senators LAUTENBERG and STABENOW that prohibits increasing retail pharmacy copays for TRICARE beneficiaries through fiscal year 2007. The President's budget submission proposed raising generic and brand name copays from $3 and $9 to $5 and $15, respectively. That type of increase is simply not an acceptable solution. Our amendment ensures that we keep prescriptions affordable for those individuals who selflessly serve in our Nation's military.

Finally, I cosponsored an amendment introduced by Senator CANTWELL that will help elucidate the link between troop exposure to depleted uranium during combat and gulf war syndrome. This amendment requires a joint comprehensive study of troop depleted uranium exposure by the Defense Department, Veterans Affairs, and Health and Human Services. We need to better understand the relationship between depleted uranium exposure and adverse health effects, and I believe this amendment will help us achieve this goal.

I thank both Senators LEVIN and WARNER for incorporating these amendments and funding priorities into the Defense authorization bill for 2007. I encourage the conferees in both the House and Senate to keep these provisions in the final version of the legislation.

IMPROVING HOSPITAL CARE

Mr. KENNEDY. Mr. President, I have said it before and I will say it again—the quality of health care in America is in critical condition. Forty-six million Americans lack health insurance. That is over 10 percent of the people in this country.

It is time to focus on revising our health care system to meet the needs of patients by extending coverage and raising the standard of care. Incremental steps can make a difference. A recent op-ed article in the Boston Globe by Cleve Killingsworth, president and CEO of Blue Cross Blue Shield of Massachusetts, highlights an informative nationwide study by the Institute for Healthcare Improvement of Cambridge, MA, in which 3,000 acute-care hospitals across the country were asked to follow specific practical guidelines proven to save patients' lives. The study, conducted over 18 months, showed that over 122,000 lives had been saved when hospitals implemented just a series of basic safety precautions to improve patient care.

Blue Cross Blue Shield has worked effectively to improve health care in Massachusetts, and I commend Mr. Killingsworth for his impressive leadership and for bringing this important study to our attention.

I believe that my colleagues will be especially interested in these practical steps to improve the quality of hospital care and their life-saving potential, and I ask unanimous consent that Mr. Killingsworth's important article be printed in the RECORD.

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

[From the Boston Globe, June 21, 2006]

LEADING THE WAY ON HEALTHCARE

(By Cleve L. Killingsworth)

Improving the quality healthcare saves lives. That's the lesson behind last week's announcement by the Institute for Healthcare Improvement that more than 120,000 such lives were saved nationally because hospitals followed proven interventions that deliver safer and more effective care.

All 72 Massachusetts acute care hospitals participated in this campaign. Their success together with the state's landmark healthcare reform law that will focus on many of the best practices used by the institute through the Massachusetts Health Care Quality and Cost Council puts the state in a unique position to lead the country in delivering top-quality health services.

Don Berwick, president of the Cambridge-based institute, explained that, over the past 18 months, a national effort by 3,000 hospitals across the country prevented the unnecessary deaths of more than 122,300 patients.

The effort supports interventions that make a real difference for patients. In many cases, that just means getting hospitals and front-line health workers to agree to follow practices that have been shown to eliminate error and save lives.

Some policies and procedures that the institute and the participating hospitals have put in place are relatively simple. For example, they are committed to giving patients who are at risk for heart attacks aspirin and beta-blockers. They are making sure that patients on ventilators have their heads raised between 30 to 45 degrees at all times to prevent them from developing pneumonia. They are implementing rapid-response teams at the first sign that a patient's condition is worsening. And they are making sure that doctors and nurses working with patients who are receiving medicines and fluids from central lines clean the patients' skin with a certain type of antiseptic.

While these procedures are not revolutionary in concept, they require significant collaborative effort and commitment. Taken together, these everyday actions can represent a sea change in patient outcomes for hospitals. Because of the size, diversity, and complexity of the healthcare system with all its insurers, providers, caregivers, and facilities it is difficult to disseminate best practices that improve patient health. And yet the success that the institute has fostered shows that it can be done.

It is fitting that every acute-care facility in the state is participating in this process. Massachusetts has already shown it can lead the nation in achieving better healthcare. Passing the legislation that made universal access to healthcare the standard wasn't easy. It took bringing together political leaders from all sides, business leaders, consumer and patient groups, insurers, hospitals, doctors, and nurses.

And there is more that can and must be done. The state Health Care Quality and Cost Council, established by the landmark legislation, can further improve the delivery of medical care and do so in a way that restrains the growth in spending. The success of the institute's effort shows what can be accomplished when all insurers and hospitals collaboratively choose concrete goals that improve the safety and effectiveness of care.

Massachusetts has the best healthcare system in the country but it can get better. Given the high caliber of the hospitals and medical schools, the commitment of doctors and nurses, and the pioneering spirit of organizations such as the institute and others that are willing to point out where the system is failing and fix it, Massachusetts is in a unique position to fundamentally transform it.

The institute has shown that improving the system will save lives. And so with the wind of reform at our backs, universal health coverage within reach, and progress not only possible but demonstrable, now is the time to commit to making Massachusetts the standard bearer for quality healthcare for all.

RURAL VETERANS CARE ACT

Mr. SALAZAR. Mr. President, I rise today to discuss a critical issue facing thousands of Americans. Many of my colleagues have heard me talk about the importance of rural America. As I have said before, in many ways, the very fabric of rural America is fraying, thread by thread. The America where I grew up—the America of farmers, ranchers, small business owners, and generations of close-knit families—is slowly slipping away. And the Federal Government is simply not doing enough to reverse this troubling trend. This America—rural America—has sadly become the ''Forgotten America.''

As we approach the Fourth of July recess, I want to talk about the challenges facing a community within the Forgotten America: rural veterans. In rural communities across the country, men and women have devoted themselves to the cause of freedom without hesitation and in numbers greatly beyond their proportion to the U.S. population. Yet we consistently overlook the unique challenges these men and women face after they return home to their families and friends in the heartland of America. When it comes to the VA health care system, we fail our Nation's rural veterans by not doing more to ensure they can access the high-quality health care they have earned. We owe them much better.

Over and over, I hear from veterans in my State about obstacles to care. I recently met with a veteran from northeast Colorado who told me he had to travel 500 miles roundtrip just to get a simple blood test at a VA hospital. I think most of my colleagues would agree with me that this is ludicrous.

I wish I could say this represents an isolated incident. Unfortunately, it does not. Because of gaps in the network of VA hospitals and clinics, and because the VA health care system is not equipped to fill these gaps, we hear stories like this all the time.

Every day, veterans from rural communities throughout the country are forced to put off crucial treatment because they live too far from VA facilities and can't get the care they need. As a result, rural veterans die younger and suffer from more debilitating illnesses—all because our system is not equipped to address their needs and provide care accordingly. A 2004 study

of over 750,000 veterans conducted by Dr. Jonathan Perlin, the Under Secretary for Health at the VA, consistently found that veterans living in rural areas are in poorer health than their urban counterparts. Still, despite the fact that 23 percent of the Nation's veterans live in rural areas, the VA does not have a high-level office responsible for coordinating care to this vital constituency.

This is simply unacceptable. We need policies that address the plight of our rural veterans, and we need them now.

With that objective in mind, Senator THUNE and I recently introduced legislation that would significantly enhance our approach to rural veterans' health care. Thanks to the support of the 12 cosponsors of this legislation and to the bipartisan efforts of my colleagues on the Veterans' Affairs Committee who worked to ensure its fair, insightful, and constructive review, we were able to include many of this legislation's provisions as part of S. 2694, a broader legislative package that passed out of committee last week.

In keeping with the objectives of our original Rural Veterans Care Act, this legislation would create an Office of Rural Health within the Veterans Health Administration. The new office would be responsible for taking a number of steps aimed at improving the way we provide care to rural veterans. Specifically, the Office of Rural Health would be charged with conducting, promoting, and disseminating research into issues affecting rural veterans, and developing and refining policies and programs to improve care and services for rural veterans. Because nearly one in every four veterans is from a rural area, the creation of this Office of Rural Health is crucial if we are to live up to our promise to provide all of our Nation's veterans with high-quality services.

Through specifically designated officials in each of the country's 23 Veterans Integrated Service Networks, this office will have a real and effective presence in rural veterans communities. These individuals will serve as regional officers responsible for consulting on and coordinating research and policies in their respective service networks. Their insight into how to provide rural veterans in their areas with the best health care possible will be incredibly useful and will help expand the reach of the new office outside the beltway, and to all corners of the country.

The Office of Rural Health will also be required to conduct a study on the feasibility of expanding the use of fee-basis care, whereby the VA contracts its services out on a limited basis to third party providers. I continue to believe we should carefully explore every available option when it comes to improving access to care for veterans living in rural areas, and I am happy that this legislation will provide a way to do just that.

With almost one-quarter of our Nation's veterans living in rural communities, and with the obstacles they face with respect to accessing high-quality care so pronounced, it is obvious we need to do better. I am pleased that the Veterans' Affairs Committee has taken an important first step toward that goal, and I am committed to working with my colleagues in the Senate, with the VA, and with veterans across the country to build on this momentum. This legislation may not be the whole answer, but it is a start, and the dialogue we have helped to start on this critical issue is long overdue.

I want to thank Senators THUNE, AKAKA, BURR, MURRAY, BAUCUS, BURNS, CONRAD, DORGAN, PRYOR, LINCOLN, MURKOWSKI, THOMAS, and ENZI for cosponsoring the Rural Veterans' Care Act. I also want to thank Chairman CRAIG and his staff for working with me and the rest of the bill's sponsors to include a provision creating a new Office of Rural Health as part of S. 2694.

I know that each and every one of my colleagues deals with veterans issues and feels a deep sense of gratitude toward the brave men and women who have fought for our freedom. I hope we can join together in support of our rural veterans. We owe it to them to make sure our actions match our rhetoric when it comes to expressing our gratitude and fulfilling the promises we have made. Toward that end, I look forward to seeing this legislation passed by Congress and sent to the President for his signature.

ADDITIONAL STATEMENTS

125TH ANNIVERSARY OF THE FOUNDING OF WENTWORTH, SOUTH DAKOTA

• Mr. JOHNSON. Mr. President, today I wish to pay tribute to the 125th anniversary of the founding of the city of Wentworth, SD.

The first settlers came to Wentworth by horse or oxen-drawn wagons, and were mainly from Milwaukee, eastern Atlantic States, Minnesota, and Iowa. The land had few trees, and most of the settlers built and lived in sod houses. On December 15, 1880, the land was surveyed and platted for owner Rinaldo Wentworth and the town was later named for his father, George Wentworth.

In 1880 the first business—a grocery store—opened its door in Wentworth. In 1881, the first train came into Wentworth, in 1904 the first telephone line was installed, and in 1917 electric street lights were turned on. There were several hotels that operated in early Wentworth as well, including the Commercial Hotel, which is now on display at nearby Prairie Village.

Wentworth will be commemorating its anniversary with a celebration from June 30 through July 4. The town plans to hold golf tournaments, parades, softball tournaments, car shows, and fireworks. The 5-day event promises to be a great opportunity to celebrate such a historic milestone.

Even 125 years after its founding, Wentworth continues to be a vibrant and progressive community. I am proud to honor the accomplishments of the people of Wentworth, and congratulate them on this impressive achievement.•

TRIBUTE TO WILLIAM CHRISTOPHER VILLAR

• Mr. MARTINEZ. Mr. President, today I wish to share with you the story of a remarkable young man from Milton, FL. William Christopher Villar, by all surface accounts, was your typical 22-year-old. He was attending community college with the hopes of one day obtaining a degree in business. He was working at a job that he loved, and he had recently gotten engaged to his long time sweetheart, Heather Dieterich. His life was unfolding the way we hope that all of our children's lives will eventually unfold.

Certainly, it was not these things or even the fact that, as a young man, he was actively involved with his church that made him atypical. And it was not the fact that he was a star on the basketball court—making the All-Conference and All-State teams his senior year at Central High School in Santa Rosa County—a high school he entered after being home schooled for a number of years. Quite simply, it was his selflessness and his unyielding love for his family that set him apart.

Chris was the oldest of three boys. As such, he was fiercely protective of his younger brothers. There is a story the family tells about an accident that happened 12 years ago that illustrates this best: Chris and Jacob, his youngest brother, were riding in the back seat of their father's car when the driver of a large recreational vehicle, coming over the peak of the I–10 bridge between Santa Rosa and Escambia counties, failed to slow down for a disabled vehicle. The significantly larger vehicle collided with Villar's car with devastating force. Chris, in an instinctive moment and without thinking of his own safety, grabbed his 2-year-old brother Jacob—perched high in his car seat—and threw his own 10-year-old body over him to save him. That should tell you volumes about the kind of person Chris Villar was.

By and large, the people who knew Chris all said the same things about him: He was a ''good boy'' and he had been ''raised right.'' That is a compliment we hear far too infrequently these days, but it is a testament to his parents. It should make them proud.

I wish I could tell you that the story ends there that this exceptional boy will one day become an exceptional man, an exceptional husband, and an exceptional dad. Unfortunately, on the evening of Thursday, June 15, Christopher Villar's life came to a tragic end when a car driven by a drunk driver crashed through the roof of his family's home. This was an avoidable tragedy. This is a grave reminder of the dangers of driving while under the influence.

Just moments before this tragedy began to unfold, Chris, like so many of us, had been enjoying the NBA playoffs with his family. He was a New York Knicks fan but pulled for the Miami Heat in this series as a way to tease his younger brother, Matt. They were kidding about it, as brothers do, when a loud noise was heard in the front yard. Whether it was the sheer instinct of a protective older brother, the hand of God, or both, Chris pushed Matt away from himself and toward the middle of his room just as the car crashed through the ceiling. In that instant, it was over. If any good can be found in this tragedy, it is that one life was lost instead of two. Once again, Chris hadn't thought of himself.

Mr. President, these words do nothing to ease the pain the friends and family of William Christopher Villar are feeling today. Their void is a void that no words can fill. I share them with you because this remarkable young man deserves to be remembered, not for the tragic accident that took his life but for the positive impact he had on the lives of others.●

125TH ANNIVERSARY OF ASHTON, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I wish to recognize the community of Ashton, SD, on reaching the 125th anniversary of its founding. Ashton is a rural community located in Spink County.

The city of Ashton was founded in the summer of 1881. There are competing stories of how the town was named: one that it was named for the railroad official R.H. Ashton; one that a group of settlers from Boston named it for a town in England; and one that it was named for the groves of Ash trees in the James Valley. The first store was operated out of a tent by Mr. McPherson. The town grew quickly, with two real estate offices, a blacksmith, and two lumberyards soon constructed. The train arrived in Ashton in September of 1881, shortly followed by the telegraph. The post office was established on December 8, 1881. Other early buildings on in Ashton were the Bowman House, CC Morris General Store, Basset and Kelly's Hardware, Anderson's Bakery, and Reed, and Kelsey's Drug Store.

Ashton was named county seat of Spink County by the Territorial Legislature in 1885, though the seat moved to Redfield about 2 years later. The people of Ashton endured a series of disasters in the ensuing years. There were large fires in 1887, 1890, 1908, and 1910. Also, a tornado damaged much of the town in 1897.

Today, Ashton is still a thriving community. There are many active businesses operating in Ashton, such as a seed and spraying store; plumbing, heating and sheet metal services; a post office; and neighborhood bar.

The people of Ashton celebrated this momentous occasion on the weekend of June 16–18. 125 years after its founding, Ashton remains a vital community and a great asset to the wonderful State of South Dakota. I am proud to honor Ashton on this historic milestone.●

MESSAGES FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4416. An act to reauthorize permanently the use of penalty and franked mail in efforts relating to the location and recovery of missing children.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 103. Concurrent resolution to correct the enrollment of the bill H.R. 889.

At 2:23 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 889) to authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4416. An act to reauthorize permanently the use of penalty and franked mail in efforts relating to the location and recovery of missing children; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7328. A communication from the Associate General Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Prohibition on Use of Community Development Block Grant Assistance for Job-Pirating Activities'' ((RIN2506–AC04)(FR–4556–F–03)) received on June 15, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–7329. A communication from the Associate General Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Community Development Block Grant Programs; Revision of CDBG Eligibility and National Objective Regulations'' ((RIN2506–AC12)(FR–4699–F–02)) received on June 15, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–7330. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report on the profitability of the credit card operations of depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–7331. A communication from the Secretary of the Treasury, transmitting, pursuant to law, two semiannual reports which were prepared separately by both the Treasury Department's Office of Inspector General and Inspector General for Tax Administration for the period ended March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7332. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual reports that appear on pages 119–143 of the March 2006 ''Treasury Bulletin''; to the Committee on Banking, Housing, and Urban Affairs.

EC–7333. A communication from the Chairman and President (Acting) of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC–7334. A communication from the Chairman and President (Acting) of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Chile; to the Committee on Banking, Housing, and Urban Affairs.

EC–7335. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subparts C and D—2006–2007 Subsistence Taking of Fish and Wildlife Regulations'' (RIN1018–AT98) received on June 15, 2006; to the Committee on Environment and Public Works.

EC–7336. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Lakeview PM10 Maintenance Plan and Redesignation Request'' (FRL No. 8179–5) received on June 15, 2006; to the Committee on Environment and Public Works.

EC–7337. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; La Grande PM10 Maintenance Plan and Redesignation Request'' (FRL No. 8179–4) received on June 15, 2006; to the Committee on Environment and Public Works.

EC–7338. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Medford-Ashland PM10 Attainment Plan, Maintenance Plan and Redesignation Request'' (FRL No. 8175–7) received on June 15, 2006; to the Committee on Environment and Public Works.

EC–7339. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Outer Continental Shelf Air Regulations

Consistency Update for California'' (FRL No. 8052–3) received on June 15, 2006; to the Committee on Environment and Public Works.

EC–7340. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL No. 8182–2) received on June 15, 2006; to the Committee on Environment and Public Works.

EC–7341. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report entitled ''Imposition of Foreign Policy Controls on Implementation of Unilateral Chemical/Biological Controls''; to the Committee on Commerce, Science, and Transportation.

EC–7342. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report entitled ''Imposition of Foreign Policy Controls on Mayrow General Trading and Related Entities''; to the Committee on Commerce, Science, and Transportation.

EC–7343. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2006'' (RIN0648–AT28) received on June 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7344. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Foreign Fishing; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Annual Specifications; Pacific Whiting'' (RIN0648–AU39) received on June 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7345. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Closure (Closure of Quarter II Fishery for Loligo Squid)'' (051806A) received on June 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7346. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Allocation of Trips into Closed Area II Yellowtail Flounder Special Access Program'' (050906B) received on June 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7347. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''General Order Concerning Mayrow General Trading and Related Entities'' (RIN0694–AD76) received on June 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7348. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Child Restraint System Webbing Strength'' (RIN2127–AI66) received on June 18, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7349. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Civil Penalty Inflation Adjustment Rule and Tables'' (RIN2120–AI52), received on June 18, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7350. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Organization Designation Authorization (ODA) Procedures; CORRECTION'' (RIN2120–AH79), received on June 18, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7351. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–223, –321, –322, and –323 Airplanes'' ((RIN2120–AA64) (Docket No. 2004–NM–142)), received on June 18, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7352. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Learjet Model 45 Airplanes'' ((RIN2120–AA64) (Docket No. 2006–NM–102)), received on June 18, 2006; to the Committee on Commerce, Science, and Transportation.

EC–7353. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model BD–100–1A10 Airplanes'' ((RIN2120–AA64) (Docket No. 2006–NM–034)), received on June 18, 2006; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2430. A bill to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study (Rept. No. 109–270).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Michael L. Dominguez, of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness.

Air Force nomination of Maj. Gen. Maurice L. McFann, Jr. to be Lieutenant General.

Army nomination of Col. Frank A. Cipolla to be Brigadier General.

Army nomination of Col. Michael J. Silva to be Brigadier General.

Navy nomination of Rear Adm. Robert B. Murrett to be Vice Admiral.

Navy nomination of Rear Adm. Mark J. Edwards to be Vice Admiral.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the CONGRESSIONAL RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Army nomination of Con G. Pham to be Colonel.

Army nominations beginning with Daryl W. Francis and ending with Dwaine M. Torgersen, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Brian E. Bishop and ending with Alan C. Saunders, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Jose R. Atencio III and ending with Christopher J. Morgan, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Brent E. Bracewell and ending with Allen L. Meyer, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Bruce R. Deschere and ending with Michael B. Rountree, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Michael L. Ellis and ending with Kristine Knutson, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nomination of Debra R. Hernandez to be Major.

Army nomination of Anne M. Emshoff to be Major.

Army nomination of Andrew P. Cap to be Major.

Army nominations beginning with Mark E. Gants and ending with Samuel L. Yingst, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Cathleen A. Burgess and ending with Jeffrey L. Wells, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Hazel P. Haynes and ending with Gia K. Yi, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Ben L. Clark and ending with Jennifer L. Williams, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Army nominations beginning with Lynn F. Abrams and ending with Robert T. Zabenko, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Marine Corps nominations beginning with Christopher J. Galfano and ending with Russell W. Parker, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2006.

Navy nomination of Zina L. Rawlins to be Lieutenant Commander.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. DEWINE, and Ms. MIKULSKI):

S. 3570. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CARPER:

S. 3571. A bill to suspend temporarily the duty on certain footwear valued over $20 a pair with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3572. A bill to suspend temporarily the duty on certain women's footwear with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3573. A bill to suspend temporarily the duty on certain men's footwear with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3574. A bill to suspend temporarily the duty on certain men's footwear valued over $20 a pair with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3575. A bill to suspend temporarily the duty on certain women's footwear valued over $20 a pair with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3576. A bill to suspend temporarily the duty on certain other footwear valued over $20 a pair with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3577. A bill to reduce temporarily the duty on certain men's footwear covering the ankle with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3578. A bill to reduce temporarily the duty on certain footwear not covering the ankle with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3579. A bill to reduce temporarily the duty on certain women's footwear covering the ankle with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3580. A bill to reduce temporarily the duty on certain women's footwear not covering the ankle with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. CARPER:

S. 3581. A bill to reduce temporarily the duty on certain other footwear covering the ankle with coated or laminated textile fabrics; to the Committee on Finance.

By Mr. KOHL (for himself, Mr. LEAHY, Mr. GRASSLEY, and Mr. SCHUMER):

S. 3582. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE:

S. 3583. A bill to amend the Internal Revenue Code of 1986 to regulate payroll tax deposit agents; to the Committee on Finance.

By Mr. AKAKA:

S. 3584. A bill to amend chapter 41 of title 5, United States Code, to provide for the establishment and authorization of funding for certain training programs for supervisors of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HATCH:

S. 3585. A bill to amend the Internal Revenue Code of 1986 to improve and expand the availability of health savings accounts, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 3586. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on contributions to funeral trusts; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mr. MCCAIN):

S. Res. 521. A resolution commending the people of Albania on the 61st anniversary of the liberation of the Jews from the Nazi death camps, for protecting and saving the lives of all Jews who lived in Albania, or sought asylum there during the Holocaust; to the Committee on Foreign Relations.

By Mr. FRIST (for himself, Mr. ALEXANDER, Mr. WARNER, and Mr. ALLEN):

S. Res. 522. A resolution celebrating the 150th anniversary of the Cities of Bristol, Tennessee and Bristol, Virginia; considered and agreed to.

By Mr. WYDEN (for himself and Mr. SMITH):

S. Res. 523. A resolution commending the Oregon State University baseball team for winning the 2006 College World Series; considered and agreed to.

By Mr. JOHNSON (for himself and Mr. ALLEN):

S. Con. Res. 106. A concurrent resolution expressing the sense of Congress regarding high level visits to the United States by democratically elected officials of Taiwan; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 345

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 345, a bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

S. 757

At the request of Mr. CHAFEE, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1353

At the request of Mr. REID, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1512

At the request of Mr. SARBANES, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 1896

At the request of Mr. SANTORUM, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1896, a bill to permit access to Federal crime information databases by educational agencies for certain purposes.

S. 1911

At the request of Mrs. CLINTON, the names of the Senator from California (Mrs. BOXER) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 1911, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 2025

At the request of Mr. BAYH, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2025, a bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2140

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2157

At the request of Mrs. BOXER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2157, a bill to amend title 10, United States Code, to provide for the Purple Heart to be awarded to prisoners of war who die in captivity under circumstances not otherwise establishing eligibility for the Purple Heart.

S. 2250

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2250, a bill to award a congressional gold medal to Dr. Norman E. Borlaug.

S. 2354

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to reduce the coverage gap in prescription drug coverage under part D of such title based on savings to the Medicare

program resulting from the negotiation of prescription drug prices.

S. 2364

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2364, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 2487

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2487, a bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops.

S. 2551

At the request of Mr. MENENDEZ, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2551, a bill to provide for prompt payment and interest on late payments of health care claims.

S. 2563

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2563, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part.

S. 2658

At the request of Mr. BOND, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 2664

At the request of Mr. BAUCUS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2664, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 2679

At the request of Mr. TALENT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2679, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

S. 2703

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2917

At the request of Ms. SNOWE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2917, a bill to amend the Communications Act of 1934 to ensure net neutrality.

S. 2990

At the request of Mr. VITTER, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2990, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 3548

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3548, a bill to authorize appropriate action if negotiations with Japan to allow the resumption of United States beef exports are not successful, and for other purposes.

S. CON. RES. 94

At the request of Mr. COCHRAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that the needs of children and youth affected or displaced by disasters are unique and should be given special consideration in planning, responding, and recovering from such disasters in the United States.

S. RES. 224

At the request of Mr. DEWINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 224, a resolution to express the sense of the Senate supporting the establishment of September as Campus Fire Safety Month, and for other purposes.

AMENDMENT NO. 4271

At the request of Mr. BOND, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 4271 proposed to S. 2766, an original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4390

At the request of Mr. TALENT, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 4390 intended to be proposed to S. 2766, an original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. DEWINE, and Ms. MIKULSKI):

S. 3570. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to join Senator DEWINE, Senator KENNEDY and Senator MIKULSKI in introducing the Older Americans Act Amendments of 2006.

The Older Americans Act Amendments of 2006 is the primary source for the delivery of social and nutrition services for older individuals. Enacted in 1965, the act's programs include supportive services, congregate and home-delivered nutrition services, community service employment, the long-term care ombudsman program, and services to prevent the abuse, neglect and exploitation of older individuals. The act also provides grants to Native Americans and research, training, and demonstration activities.

The 2000 amendments to the act authorized the National Family Caregiver Support Program; allowed State agencies on aging to impose cost-sharing for certain supportive services for older persons; revised the State funding formulas; and required the Department of Labor to establish performance measures for the community service employment program.

Title I of the Older Americans Act set broad social policy objective to improve the lives of all older Americans. It recognized the need for an adequate income in retirement, and the importance of physical and mental health, employment in community services for older individuals and long-term care services.

Title II established the Administration on Aging, AOA, within the Department of Health and Human Services to be the primary Federal advocate for older individuals and to administer the provisions of the Older Americans Act. It also established the National Eldercare Locator Service to provide nationwide information with regard to resources for older individuals; the National Long-term Care Ombudsman Resource Center; the National Center on Elder Abuse; the National Aging Information Center; and the Pension Counseling and Information Program. The 2006 amendments will establish an Office of Elder Abuse Prevention and Services to develop a long-term plan and national response to elder abuse prevention, detection, treatment, and intervention. Further, the 2006 amendments strengthen the leadership of the Department of Health and Human Services through an interagency coordinating committee to guide policy and program development across the Federal Government with respect to aging and demographic changes.

Title III authorized grants to State and area agencies on aging to act as

advocates on behalf of older individuals. Title III services are targeted to those with the greatest economic and social need, particularly low-income minority persons and older persons residing in rural communities. It funds supportive services, congregate and home-delivered meals, transportation, home care, adult day care, information assistance, and legal assistance. The 2006 amendments will expand the Caregiver Support Program to permit the use of volunteers to enhance services and increase program authorization levels. In addition, the bill contains a new demonstration project that promises to lead to changes in our long-term care delivery system, leading to consumer driven choices.

Title IV authorized grants for training, research, and demonstration projects in the field of aging. This title supports a wide range of projects including those related to income, health, housing, retirement and long-term care, as well as career preparation and continuing education. The 2006 amendments will expand gerontology training for minority students; multigenerational activities, and civic engagement activities.

Title V authorized the community service employment program for older Americans known as the Senior Community Service Employment or SCSEP—to promote part-time opportunities in community service for unemployed, low-income persons who are 55 years or older and who have poor employment prospects. It is administered by the Department of Labor. The 2006 amendments establish 4-year grant cycles for the competitive program and permit poor performing grantees to be terminated from the program based on performance measures and establishes a 3 year limit for participating in subsidized employment with a 20-percent waiver for difficult to place individuals.

Title VI authorized funds for Supportive and nutrition services for older Native Americans. The 2006 amendments will increase the funding levels for this program.

Title VII authorized the long-term care ombudsman program and elder abuse, neglect and exploitation prevention programs. The 2006 amendments will enhance the elder abuse prevention activities by awarding grants to States and Indian tribes to enable them to strengthen long-term care and provide assistance for elder justice and elder abuse prevention programs. It will create grants for prevention, detection, assessment, treatment of, intervention in, investigation of, and response to elder abuse; safe havens demonstrations for older individuals; volunteer programs; multidisciplinary activities; elder fatality and serious injury review teams; programs for underserved populations; incentives for longterm care facilities to train and retain employees; and other collaborative and innovative approaches. Further, it will initiate a new incidence and prevalence study and a data collection process.

The proportion of the population aged 60 and over will increase dramatically over the next 30 years as more than 78 million baby boomers approach retirement. It is essential that in the coming years Congress and the Federal Government take a leadership role in assisting the states in addressing the needs of older Americans. The bill we offer today will ensure that our Nation's older Americans are healthy, fed, housed, able to get where they need to go and safe from abuse and scams. The No. 1 resolution of the 2005 White House Conference on Aging called upon Congress to reauthorize the Older Americans Act during the 109th Congress. I am pleased that the Senate and the House are well on the way to accomplisling this goal on behalf of one of our Nation's greatest resources—our older Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Older Americans Act Amendments of 2006''.

SEC. 2. DEFINITIONS.

Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) in paragraph (12)(D), to read as follows:

''(D) evidence-based health promotion programs, including programs related to the prevention and mitigation of the effects of chronic disease (including osteoporosis, hypertension, obesity, diabetes, and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, stress management, falls prevention, physical activity, and improved nutrition;'';

(2) by striking paragraph (24) and inserting the following:

''(24) The term 'exploitation' means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary (as such terms are defined in section 751), that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.'';

(3) in paragraph (29)(E)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) older individuals at risk for institutional placement.'';

(4) in paragraph (32)(D), by inserting '', including an assisted living facility,'' after ''home'';

(5) by striking paragraph (34) and inserting the following:

''(5)(A) The term 'neglect' means—

''(i) the failure of a caregiver or fiduciary (as such terms are defined in section 751) to provide the goods or services that are necessary to maintain the health or safety of an older individual; or

''(ii) self-neglect.

''(B) The term 'self-neglect' means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

''(i) obtaining essential food, clothing, shelter, and medical care;

''(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

''(iii) managing one's own financial affairs.''; and

(6) by adding at the end the following:

''(44) The term 'Aging and Disability Resource Center' means a center established by a State as part of the State's system of long-term care, to provide a coordinated system for providing—

''(A) comprehensive information on available public and private long-term care programs, options, and resources;

''(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and

''(C) consumer access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

''(45) The term 'at risk for institutional placement' means, with respect to an older individual, that such individual is unable to perform at least two activities of daily living without substantial assistance (including verbal reminding, physical cuing, or supervision), including such an older individual that is determined by the State involved to be in need of placement in a long-term care facility.

''(46) The term 'Hispanic-serving institution' has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

''(47) The term 'long-term care' means any services, care, or items (including assistive devices) that are—

''(A) intended to assist individuals in coping with, and to the extent practicable compensating for, functional impairments in carrying out activities of daily living;

''(B) furnished at home, in a community care setting (including a small community care setting as defined in subsection (g)(1), and a large community care setting as defined in subsection (h)(1), of section 1929 of the Social Security Act (42 U.S.C. 1396t)), or in a long-term care facility; and

''(C) not furnished to diagnose, treat, or cure a medical disease or condition.

''(48) The term 'self-directed care' means an approach to providing services (including programs, benefits, supports, and technology) under this Act intended to assist an older individual with activities of daily living, in which—

''(A) such services (including the amount, duration, scope, provider, and location of such services) are planned, budgeted, and purchased under the direction and control of such individual;

''(B) such individual is provided with such information and assistance as is necessary and appropriate to enable such individual to make informed decisions about the individual's service options;

''(C) the needs, capabilities, and preferences of such individual with respect to such services, and such individual's ability to direct and control the individual's receipt of such services, are assessed by the area agency on aging involved or the local provider agency;

''(D) based on the assessment made under subparagraph (C), upon request, the area agency on aging assists such individual and the individual's family, caregiver, or legal representative in developing—

''(i) a plan of services for such individual that specifies which services such individual will be responsible for directing;

''(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan; and

''(iii) a budget for such services; and

''(E) the area agency on aging or State agency involved provides for oversight of such individual's self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this Act.

''(49) The term 'State system of long-term care' means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care to individuals in such State.''.

SEC. 3. OFFICE OF ELDER ABUSE PREVENTION AND SERVICES.

Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

''(e)(1) In this subsection, the terms defined in section 751 shall have the meanings given those terms in that section.

''(2) The Secretary is authorized to establish or designate within the Administration (as defined in section 102) an Office of Elder Abuse Prevention and Services.

''(3) It shall be the duty of the Assistant Secretary, acting through the head of the Office of Elder Abuse Prevention and Services to—

''(A) develop objectives, priorities, policy, and a long-term plan for—

''(i) carrying out elder justice programs and activities relating to—

''(I) elder abuse prevention, detection, treatment, and intervention, and response;

''(II) training of individuals regarding the matters described in subclause (I); and

''(III) the improvement of the elder justice system in the United States;

''(ii) annually collecting, maintaining, and disseminating data relating to the abuse, neglect, and exploitation of elders (and, in the discretion of the Secretary, vulnerable adults), including collecting, maintaining, and disseminating such data under section 753 after consultation with the Attorney General and working with experts from the Department of Justice described in section 753(b)(1);

''(iii) disseminating information concerning best practices regarding, and providing training on, carrying out activities related to abuse, neglect, and exploitation of elders (and, in the discretion of the Secretary, vulnerable adults);

''(iv) in conjunction with the necessary experts, conducting research related to abuse, neglect, and exploitation of elders (and, in the discretion of the Secretary, vulnerable adults);

''(v) providing technical assistance to States and other eligible entities that provide or fund the provision of the services described in subtitle B of title VII; and

''(vi) carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation in all settings;

''(B) implement the overall policy and a strategy to carry out the plan described in subparagraph (A); and

''(C) provide advice to the Secretary on elder justice issues and administer such programs relating to elder abuse, neglect, and exploitation as the Secretary determines to be appropriate.

''(4) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and subtitle B of title VII.''.

SEC. 4. FUNCTIONS OF THE ASSISTANT SECRETARY.

Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended—

(1) in subsection (a)—

(A) in paragraph (12)—

(i) by striking ''carry on'' and inserting the following:

''(B) carry on''; and

(ii) by striking ''(12)'' and inserting the following:

''(12)(A) consult and coordinate activities with the Administrator of the Centers for Medicare & Medicaid Services to implement and build awareness of programs providing new benefits affecting older individuals; and'';

(B) by striking paragraph (20) and inserting the following:

''(20)(A) provide technical assistance and support for outreach and benefits enrollment assistance to support efforts—

''(i) to inform older individuals with greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs for which the individuals are eligible, about the programs; and

''(ii) to enroll the individuals in the programs;

''(B) in cooperation with related Federal agency partners administering the Federal programs, make a grant to or enter into a contract with a qualified, experienced entity to establish a National Center on Senior Benefits Outreach and Enrollment, which shall—

''(i) maintain and update web-based decision support and enrollment tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs;

''(ii) utilize cost-effective strategies to find older individuals with greatest economic need and enroll the individuals in the programs;

''(iii) create and support efforts for Aging and Disability Resource Centers, and other public and private State and community-based organizations, including faith-based organizations and coalitions, to serve as benefits enrollment centers for the programs;

''(iv) develop and maintain an information clearinghouse on best practices and the most cost-effective methods for finding and enrolling older individuals with greatest economic need in the programs; and

''(v) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on the most effective outreach, screening, enrollment, and follow-up strategies for the Federal and State programs.'';

(C) in paragraph (26)(D)—

(i) by striking ''gaps in'';

(ii) by inserting ''(including services that would permit such individuals to receive long-term care in home and community-based settings)'' after ''individuals''; and

(iii) by striking ''and'' at the end;

(D) in paragraph (27), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(28) make available to States information and technical assistance to support the provision of evidence-based disease prevention and health promotion services.''; and

(2) by striking subsection (b) and inserting the following:

''(b) To promote the development and implementation of comprehensive, coordinated systems at Federal, State, and local levels for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, the Assistant Secretary shall, consistent with the applicable provisions of this title—

''(1) collaborate, coordinate, and consult with other Federal agencies and departments (other than the Administration on Aging) responsible for formulating and implementing programs, benefits, and services related to providing long-term care, and may make grants, contracts, and cooperative agreements with funds received from those other Federal agencies and departments;

''(2) conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying State systems of long-term care to—

''(A) respond to the needs and preferences of older individuals and family caregivers;

''(B) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings; and

''(C) establish criteria for and promote the implementation (through area agencies on aging, service providers, and such other entities as the Assistant Secretary determines to be appropriate) of evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals;

''(3) facilitate, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, including the provision of such care through self-directed care models that—

''(A) provide for the assessment of the needs and preferences of an individual at risk for institutional placement to help such individual avoid unnecessary institutional placement and depletion of income and assets to qualify for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

''(B) respond to the needs and preferences of such individual and provide the option—

''(i) for the individual to direct and control the receipt of supportive services provided; or

''(ii) as appropriate, for a person who was appointed by the individual, or is legally acting on the individual's behalf, in order to represent or advise the individual in financial or service coordination matters (referred to in this paragraph as a 'representative' of the individual), to direct and control the receipt of those services; and

''(C) assist an older individual (or, as appropriate, a representative of the individual) to develop a plan for long-term support, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services;

''(4) provide for the Administration to play a lead role with respect to issues concerning home and community-based long-term care, including—

''(A) directing (as the Secretary or the President determines to be appropriate) or otherwise participating in departmental and interdepartmental activities concerning long-term care; and

''(B) reviewing and commenting on departmental rules, regulations, and policies related to providing long-term care; and

''(C) making recommendations to the Secretary with respect to home and community-based long-term care, including recommendations based on findings made through projects conducted under paragraph (2);

''(5) promote, in coordination with other appropriate Federal agencies—

''(A) enhanced awareness by the public of the importance of planning in advance for long-term care; and

''(B) the availability of information and resources to assist in such planning;

''(6) establish, either directly or through grants or contracts, a national technical assistance program to assist State agencies, area agencies on aging, and community-based service providers funded under this Act in implementing home and community-based long-term care systems, including evidence-based programs;

''(7) develop, in collaboration with the Administrator of the Centers for Medicare & Medicaid Services, performance standards and measures for use by States to determine the extent to which their systems of long-term care fulfill the objectives described in this subsection; and

''(8) conduct such other activities as the Assistant Secretary determines to be appropriate.

''(c) The Assistant Secretary, after consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall—

''(1) encourage and permit volunteer groups (including organizations carrying out national service programs and including organizations of youth in secondary or postsecondary school) that are active in supportive services and civic engagement to participate and be involved individually or through representative groups in supportive service and civic engagement programs or activities to the maximum extent feasible;

''(2) develop a comprehensive strategy for utilizing older individuals to address critical local needs of national concern; and

''(3) encourage other community capacity-building initiatives involving older individuals.''.

SEC. 5. FEDERAL AGENCY CONSULTATION.

Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(1) in subsection (a)(3)(A)—

(A) by striking ''(with particular attention to low-income minority older individuals and older individuals residing in rural areas)'' and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''; and

(B) by striking ''section 507'' and inserting ''section 516'';

(2) in subsection (b), by adding at the end the following:

''(19) Sections 4 and 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3003, 3004).''; and

(3) by adding at the end the following:

''(c)(1) The Secretary, in collaboration with the Secretary of Housing and Urban Development and with the other Federal officials specified in paragraph (2), shall establish an interagency coordinating committee (referred to in this subsection as the 'Committee') focusing on the coordination of agencies with respect to aging issues, particularly issues related to demographic changes and housing needs among older individuals.

''(2) The officials referred to in paragraph (1) are the Secretary of Labor, the Secretary of Housing and Urban Development, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Agriculture, the Commissioner of Social Security, the Surgeon General, the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Assistant Secretary for Children and Families, the Administrator of the National Highway Traffic Safety Administration, and such other Federal officials as the Secretary of Health and Human Services determines to be appropriate.

''(3) The Secretary of Health and Human Services shall serve as the first chairperson of the Committee, for an initial period of 2 years. After that initial period, the Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall alternate as chairpersons of the Committee, each serving as chairperson for a period of 2 years.

''(4) The Committee shall—

''(A) review all Federal programs and services that assist older individuals in finding and affording housing, health care, and other services, including those Federal programs and services that assist older individuals in accessing health care, transportation, supportive services, and assistance with daily activities, at the place or close to the place where the older individuals live;

''(B) monitor, evaluate, and recommend improvements in programs and services administered, funded, or financed by Federal, State, and local agencies to assist older individuals in meeting their housing, health care, and other service needs and make any recommendations about how the agencies can better carry out and provide the programs and services to house and serve older individuals;

''(C) recommend ways to—

''(i) facilitate aging in place of older individuals, by identifying and making available the programs and services necessary to enable older individuals to remain in their homes as the individuals age;

''(ii) reduce duplication by Federal agencies of programs and services to assist older individuals in meeting their housing, health care, and other service needs;

''(iii) ensure collaboration among and within agencies in providing and making available the programs and services so that older individuals are able to easily access needed programs and services;

''(iv) work with States to better provide housing, health care, and other services to older individuals by—

''(I) holding individual meetings with State representatives;

''(II) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

''(III) working with States to designate State liaisons for the Committee;

''(v) identify model programs and services to assist older individuals in meeting their housing, health care, and other service needs, including model—

''(I) programs linking housing, health care, and other services;

''(II) financing products offered by government, quasi-government, and private sector entities; and

''(III) innovations in technology applications that give older individuals access to information on available services or that help in providing services to older individuals;

''(vi) collect and disseminate information about older individuals and the programs and services available to the individuals to ensure that the individuals can access comprehensive information; and

''(vii) work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies—

''(I) to collect and maintain data relating to the housing, health care, and other service needs of older individuals so that all such data can be accessed in one place on a designated website; and

''(II) to identify and address unmet data needs;

''(D) make recommendations to guide policy and program development across Federal agencies with respect to demographic changes among older individuals; and

''(E) actively seek input from and consult with all appropriate and interested parties, including public health interest and research groups and foundations about the activities described in subparagraphs (A) through (D).

''(5) Each year, the Committee shall prepare and submit to the President, the Committee on Financial Services of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate, a report that—

''(A) describes the activities and accomplishments of the Committee in working with Federal, State, and local governments, and private organizations, in coordinating programs and services to meet the requirements of paragraph (4);

''(B) assesses the level of Federal assistance required to meet the needs described in paragraph (4);

''(C) incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (1) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of programs and services administered by such agency; and

''(D) makes recommendations for appropriate legislative and administrative actions to meet the needs described in paragraph (4) and for coordinating programs and services designed to meet those needs.

''(6)(A) The Secretary of Health and Human Services, after consultation with the Secretary of Housing and Urban Development, shall appoint an executive director of the Committee.

''(B) On the request of the Committee, any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.''.

SEC. 6. ADMINISTRATION.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (C), by adding ''and'' at the end;

(ii) in subparagraph (D), by striking ''; and'' at the end and inserting a period; and

(iii) by striking subparagraph (E); and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

''(i) designing, implementing, and evaluating evidence-based programs to support improved nutrition and regular physical activity for older individuals;'';

(II) by amending clause (iii) to read as follows:

''(iii) conducting outreach and disseminating evidence-based information to nutrition service providers about the benefits of healthful diets and regular physical activity, including information about the most current Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), the Food Guide Pyramid published by the Secretary of Agriculture, and advances in nutrition science;'';

(III) in clause (vii) by striking ''and'' at the end; and

(IV) by striking clause (viii) and inserting the following:

''(viii) disseminating guidance that describes strategies for improving the nutritional quality of meals provided under title III; and

''(ix) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (viii).''; and

(ii) by amending subparagraph (C)(i) to read as follows:

''(i) have expertise in nutrition and meal planning; and''.

SEC. 7. EVALUATION.

Section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) is amended by striking the first sentence and inserting the following: ''From the total amount appropriated for each fiscal year to carry out title III, the Secretary may use such sums as may be necessary, but not more than ½ of 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or by grant or contract.''.

SEC. 8. REPORTS.

Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended—

(1) in subparagraph (B), by striking ''Labor'' and inserting ''the Workforce''; and

(2) in subparagraph (C), by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''.

SEC. 9. CONTRACTUAL, COMMERCIAL AND PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF ACT FUNDS.

(a) PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF ACT FUNDS.—Section 212 of the Older Americans Act (42 U.S.C. 3020c) is amended to read as follows:

''SEC. 212. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.

''(a) IN GENERAL.—Subject to subsection (b), this Act shall not be construed to prevent a recipient of a grant or a contract under this Act from entering into an agreement—

''(1) with a profitmaking organization;

''(2) under which funds provided under such grant or contract are used to pay part or all of a cost (including an administrative cost) incurred by such recipient to carry out a contract or commercial relationship for the benefit of older individuals or their family caregivers, whether such contract or relationship is carried out to implement a provision of this Act or to conduct activities inherently associated with implementing such provision; or

''(3) under which any individual, regardless of age or income (including the family caregiver of such individual), who seeks to receive 1 or more services may voluntarily pay, at their own private expense, to receive such services based on the fair market value of such services.

''(b) ENSURING APPROPRIATE USE OF FUNDS.—An agreement described in subsection (a) may not—

''(1) be made without the prior approval of the State agency (or, in the case of a grantee under title VI, without the prior recommendation of the Director of the Office for American Indian, Alaska Native, and Native Hawaiian Aging and the prior approval of the Assistant Secretary);

''(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, or otherwise compensating an entity under such agreement in an amount that exceeds the fair market value of the goods or services furnished by such entity under such agreement;

''(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual who is at risk for institutional placement; or

''(4) in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of older individuals, as determined by the Assistant Secretary.''.

SEC. 10. NUTRITION EDUCATION.

Section 214 of the Older Americans Act of 1965 (42 U.S.C. 3020e) is amended to read as follows:

''SEC. 214. NUTRITION EDUCATION.

''The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

''(1) are designed for older individuals; and

''(2) include—

''(A) nutrition education;

''(B) physical activity; and

''(C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, through education and counseling in accordance with section 339(2)(J).''.

SEC. 11. PENSION COUNSELING AND INFORMATION PROGRAMS.

Section 215 of the Older Americans Act of 1965 (42 U.S.C. 3020e–1) is amended—

(1) in subsection (e)(1)(J), by striking ''and low income retirees'' and inserting '', low-income retirees, and older individuals with limited English proficiency'';

(2) in subsection (f), by amending paragraph (2) to read as follows:

''(2) The ability of the entity to perform effective outreach to affected populations, particularly populations with limited English proficiency and other populations that are identified as in need of special outreach.''; and

(3) in subsection (h)(2), by inserting ''(including individuals with limited English proficiency)'' after ''individuals''.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 216 of the Older Americans Act of 1965 (42 U.S.C. 3020f) is amended—

(1) in subsection (a) by striking ''2001, 2002, 2003, 2004, and 2005'' and inserting ''2007, 2008, 2009, 2010, and 2011.''; and

(2) in subsections (b) and (c) by striking ''year'' and all that follows through ''years'', and inserting ''years 2007, 2008, 2009, 2010, and 2011''.

SEC. 13. PURPOSE; ADMINISTRATION.

Section 301(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) organizations with experience in providing senior volunteer services, such as Federal volunteer programs administered by the Corporation for National and Community Service and designed to provide training, placement, and stipends for volunteers in community service settings.''.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended—

(1) in subsections (a)(1), (b), and (d), by striking ''year 2001'' and all that follows through ''years'' each place it appears, and inserting ''years 2007, 2008, 2009, 2010, and 2011''; and

(2) in subsection (e)—

(A) in paragraph (1) by striking ''$125,000,000'' and all that follows and inserting ''$160,000,000 for fiscal year 2007.''; and

(B) in paragraph (2), by striking ''such sums'' and all that follows and inserting ''$170,000,000 for fiscal year 2008, $180,000,000 for fiscal year 2009, $190,000,000 for fiscal year 2010, and $200,000,000 for fiscal year 2011.''.

SEC. 15. ALLOTMENTS.

Section 304(d)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(A)) is amended to read as follows:

''(A)(i) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans; and

''(ii) in addition to that amount, for any fiscal year among fiscal years 2007 through 2011 for which the amount appropriated under subsections (a) through (d) of section 303 is not less than 110 percent of that appropriated amount for fiscal year 2006, an amount equal to 1 percent of the State's allotment shall be used by the area agencies on aging in the State to carry out the assessment described in section 306(b);''.

SEC. 16. ORGANIZATION.

Section 305 of the Older Americans Act of 1965 (42 U.S.C. 3025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(E)—

(i) by striking ''(with particular attention to low-income minority individuals and older individuals residing in rural areas)'' each place it appears and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''; and

(ii) by striking ''and'' at the end;

(B) in paragraph (2)—

(i) in subparagraph (E), by striking '', with particular attention to low-income minority individuals and older individuals residing in rural areas'' and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''; and

(ii) in subparagraph (G), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(3) the State agency shall, consistent with this section, promote the development and implementation of a comprehensive, coordinated system in such State for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

''(A) collaborating, coordinating, and consulting with other agencies in such State responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care;

''(B) participating in any State government activities concerning long-term care, including reviewing and commenting on any State rules, regulations, and policies related to long-term care;

''(C) conducting analyses and making recommendations with respect to strategies for modifying the State's system of long-term care to better—

''(i) respond to the needs and preferences of older individuals and family caregivers;

''(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings;

''(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings; and

''(iv) implement (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

''(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, and other appropriate means) of information relating to—

''(i) the need to plan in advance for long-term care; and

''(ii) the range of available public and private long-term care programs, options, and resources.''; and

(2) in subsection (b), by adding at the end the following:

''(6) Nothing in this section shall prevent the Commonwealth of Puerto Rico from designating, with the approval of the Assistant Secretary, a single planning and service area to cover all the older individuals in the Commonwealth.''.

SEC. 17. AREA PLANS.

Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''(with particular attention to low-income minority individuals and older individuals residing in rural areas)'' and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)'';

(ii) by striking ''(with particular attention to low-income minority individuals)'' and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''; and

(iii) by inserting ''the number of older individuals at risk for institutional placement residing in such area,'' after ''individuals) residing in such area,'';

(B) in paragraph (2)(A)—

(i) by inserting after ''transportation,'' the following: ''health services (including mental health services),''; and

(ii) by inserting after ''information and assistance'' the following: ''(which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible)'';

(C) in paragraph (4)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

''(i) provide assurances that the area agency on aging will—

''(I) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

''(II) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

''(III) include in the area plan proposed methods to achieve such objectives;''; and

(II) in clause (ii) by inserting ''(including older individuals with limited English proficiency)'' after ''low income minority individuals'' each place it appears; and

(ii) in subparagraph (B)—

(I) by moving the left margin of each of subparagraph (B), clauses (i) and (ii), and subclauses (I) through (VI) of clause (i), 2 ems to the left; and

(II) in clause (i)—

(aa) in subclause (V) by striking ''with limited English-speaking ability; and'' and inserting ''with limited English proficiency;''; and

(bb) by adding at the end the following:

''(VII) older individuals at risk for institutional placement; and'';

(D) in paragraph (5), by inserting ''and individuals at risk for institutional placement'' after ''severe disabilities'';

(E) in paragraph (6)—

(i) in subparagraph (C)—

(I) in clause (i), by striking ''and'' at the end;

(II) in clause (ii), by adding ''and'' at the end; and

(III) by inserting after clause (ii) the following:

''(iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with entities carrying out volunteer programs (including programs administered by the Corporation for National and Community Services) designed to provide training, placement, and stipends for volunteers in community service settings.'';

(ii) in subparagraph (D)—

(I) by inserting ''family caregivers of such individuals,'' after ''Act,''; and

(II) by inserting ''service providers, representatives of the business community,'' after ''individuals,''; and

(iii) in subparagraph (F), by inserting ''(including mental health screening)'' before ''provided'' each place it appears;

(F) in paragraph (7), to read as follows:

''(7) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

''(A) collaborating, coordinating, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

''(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

''(i) respond to the needs and preferences of older individuals and family caregivers;

''(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings;

''(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings; and

''(iv) implement (through the agency or service providers), evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

''(C) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, and other appropriate means) of information relating to—

''(i) the need to plan in advance for long-term care; and

''(ii) the range of available public and private long-term care programs, options, and resources.'';

(G) by striking the 2 paragraphs (15);

(H) by redesignating paragraph (16) as paragraph (15); and

(I) by adding at the end the following:

''(16) provide assurances that funds received under this title will be used—

''(A) to provide benefits and services to older individuals giving priority to older individuals identified in paragraph (4)(A)(i); and

''(B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212(b); and

''(17) provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

''(18) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery.'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f); and

(3) by inserting after subsection (a) the following:

''(b)(1) In any fiscal year, an area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for a change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted. In a fiscal year described in section 304(d)(1)(A)(ii), an area agency or aging shall include the assessment in the area plan.

''(2) Such assessment may include—

''(A) the projected change in the number of older individuals in the planning and service area;

''(B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

''(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

''(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.

''(3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

''(A) health and human services;

''(B) land use;

''(C) housing;

''(D) transportation;

''(E) public safety;

''(F) workforce and economic development;

''(G) recreation;

''(H) education;

''(I) civic engagement;

''(J) emergency preparedness; and

''(K) any other service as determined by such agency.''.

SEC. 18. STATE PLANS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in paragraph (2)(C), by striking ''section 306(b)'' and inserting ''section 306(c)'';

(2) in paragraph (4), by striking '', with particular attention to low-income minority individuals and older individuals residing in rural areas'' and inserting ''(with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)'';

(3) by striking paragraph (15);

(4) by redesignating paragraph (14) as paragraph (15);

(5) by inserting after paragraph (13) the following:

''(14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

''(A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and

''(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.'';

(6) in clauses (ii) and (iii) of paragraph (16)(A) by striking ''(with particular attention to low-income minority individuals and older individuals residing in rural areas)'' each place it appears and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''; and

(7) by adding at the end the following:

''(27) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

''(28)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for a change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

''(B) Such assessment may include—

''(i) the projected change in the number of older individuals in the State;

''(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with great economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

''(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

''(iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.

''(29) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, and any other institutions that have responsibility for disaster relief service delivery.

''(30) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

''(31) The plan shall provide that the State shall implement an Aging and Disability Resource Center—

''(A) to serve as a visible and trusted source of information on the full range of options for long-term care, including both institutional and home and community-based care, that are available in the State;

''(B) to provide personalized and consumer-friendly assistance to empower individuals to make informed decisions about their long-term care options;

''(C) to provide coordinated and streamlined access to all publicly funded long-term care options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

''(D) to help individuals to plan ahead for their long-term care needs; and

''(E) to assist, in coordination with the entity carrying out the health insurance information, counseling, and assistance program (receiving funding under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4)) in the State, beneficiaries, and prospective beneficiaries, under the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in understanding and accessing prescription drug and preventative health benefits under the provisions of, and amendments made by, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.''.

SEC. 19. PAYMENTS.

Section 309(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3029(b)(2)) is amended by striking ''the non-Federal share required prior to fiscal year 1981'' and inserting ''10 percent of the cost of the services specified in section 304(d)(1)(D)''.

SEC. 20. NUTRITION SERVICES INCENTIVE PROGRAM.

Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended—

(1) in subsection (b), by adding at the end the following:

''(3) Each State agency and grantee under title VI shall promptly and equitably disburse amounts received under this subsection to recipients of grants and contracts.'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting '', including bonus commodities,'' after ''agricultural commodities'';

(B) in paragraph (2), by inserting '', including bonus commodities,'' after ''food commodities''; and

(C) in paragraph (3), by inserting '', including bonus commodities,'' after ''Dairy products'';

(3) in subsection (d)(4), by inserting ''and grantee under title VI'' after ''State agency''; and

(4) in subsection (e), by striking ''2001'' and inserting ''2007''.

SEC. 21. CONSUMER CONTRIBUTIONS.

Section 315 of the Older Americans Act of 1965 (42 U.S.C. 3030c–2) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''provided that'' and inserting ''if''; and

(ii) by adding at the end the following: ''Such contributions shall be encouraged for individuals whose self-declared income is at or above 200 percent of the poverty line, at contribution levels based on the actual cost of services.''; and

(B) in paragraph (4)(E), by inserting ''and to supplement (not supplant) funds received under this Act'' after ''given'';

(2) in subsection (c)(2), by striking ''(with particular attention to low-income minority individuals and older individuals residing in rural areas)'' and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''; and

(3) in subsection (d), by striking ''with particular attention to low-income and minority older individuals and older individuals residing in rural areas'' and inserting ''(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''.

SEC. 22. SUPPORTIVE SERVICES AND SENIOR CENTERS.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (8), by inserting ''(including mental health screening)'' after ''screening'';

(2) in paragraph (11) by striking ''services'' and inserting ''provision of devices and services (including provision of assistive technology devices and assistive technology services)'';

(3) in paragraph (14)(B) by inserting ''(including mental health)'' after ''health'';

(4) in paragraph (22) by striking the period at the end and inserting a semicolon;

(5) by redesignating paragraph (23) as paragraph (24); and

(6) by inserting after paragraph (22) the following:

''(23) services designed to support States, area agencies on aging, and local service providers in carrying out and coordinating activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment; and''.

SEC. 23. NUTRITION SERVICES.

After the part heading of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.), insert the following:

''SEC. 330. PURPOSE.

''It is the purpose of this part to promote socialization and the health and well-being of older individuals by assisting such individuals to gain access to nutrition services to delay the onset of adverse health conditions.''.

SEC. 24. CONGREGATE NUTRITION PROGRAM.

Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030e) is amended—

(1) by striking ''projects—'' and inserting ''projects that—'';

(2) in paragraph (1) by striking ''which'' the first place it appears;

(3) in paragraph (2), by striking ''which''; and

(4) by striking paragraph (3) and inserting the following:

''(3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants.''.

SEC. 25. HOME DELIVERED NUTRITION SERVICES.

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended to read as follows:

''SEC. 336. PROGRAM AUTHORIZED.

''The Assistant Secretary shall establish and carry out a program to make grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals that provide—

''(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental foods and any additional meals that the recipient of a grant or contract under this subpart elects to provide; and

''(2) nutrition education, nutrition counseling, and other nutrition services as appropriate, based on the needs of meal recipients.''.

SEC. 26. CRITERIA.

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended to read as follows:

"SEC. 337. CRITERIA.

''The Assistant Secretary, in consultation with recognized experts in the fields of nutrition science, dietetics, meal planning and food service management, and aging, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336.''.

SEC. 27. NUTRITION.

Section 339 of the Older Americans Act of 1965 (42 U.S.C. 3030g–21) is amended—

(1) in paragraph (1), to read as follows:

''(1) solicit the advice and expertise of a dietitian or other individual with education and training in nutrition science or, if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, and''; and

(2) in paragraph (2)—

(A) in subparagraph (A)(i), to read as follows:

''(i) comply with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and''; and

(B) in subparagraph (D), by inserting ''joint'' after ''encourages''; and

(C) in subparagraph (G), to read as follows:

''(G) ensures that meal providers solicit the advice and expertise of—

''(i) a dietitian or other individual described in paragraph (1),

''(ii) meal participants, and

''(iii) other individuals knowledgeable with regard to the needs of older individuals,''; and

(D) in subparagraph (I), by striking ''and'' at the end; and

(E) in subparagraph (J), to read as follows:

''(J) provides for nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate; and

''(K) encourages individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care professionals, such as informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals' communities.''.

SEC. 28. STUDY OF NUTRITION PROJECTS.

(a) STUDY.—

(1) IN GENERAL.—The Assistant Secretary for Aging shall use funds allocated in section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) to enter into a contract with the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, for the purpose of establishing an independent panel of experts that will conduct an evidence-based study of the nutrition projects authorized under such Act.

(2) STUDY.—Such study shall, to the extent data are available, include—

(A) an evaluation of the effect of the nutrition projects authorized by such Act on—

(i) improvement of the health status, including nutritional status, of participants in the projects;

(ii) prevention of hunger and food insecurity of the participants; and

(iii) continuation of the ability of the participants to live independently;

(B) a cost-benefit analysis of nutrition projects authorized by such Act, including the potential to affect costs of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(C) an analysis of how nutrition projects authorized by such Act may be modified to improve the outcomes described in subparagraph (A), including by improving the nutritional quality of the meals provided through the projects and undertaking other potential strategies to improve the nutritional status of the participants.

(b) REPORTS.—

(1) REPORT TO THE ASSISTANT SECRETARY.—The panel described in subsection (a) shall submit to the Assistant Secretary a report containing the results of the evidence-based study described in subsection (a), including any recommendations resulting from the analysis described in subsection (a)(2)(C).

(2) REPORT TO CONGRESS.—The Assistant Secretary shall submit a report containing the results described in paragraph (1) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) TIMING.—The Food and Nutrition Board shall establish the independent panel of experts described in subsection (a) not later than 90 days after the date of the enactment of this Act. The panel shall submit the report described in subsection (b)(1) to the Assistant Secretary not later than 24 months after the date of the enactment of this Act.

SEC. 29. IMPROVING INDOOR AIR QUALITY IN BUILDINGS WHERE OLDER INDIVIDUALS CONGREGATE.

Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended by adding at the end the following:

''(c) The Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.''.

SEC. 30. CAREGIVER SUPPORT PROGRAM DEFINITIONS.

Section 372 of the Older Americans Act of 1965 (42 U.S.C. 3030s) is amended—

(1) in paragraph (1), by inserting ''or an adult child with mental retardation or a related developmental disability'' after ''age'';

(2) in paragraph (2), by inserting before the period the following: ''or an individual with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction who is 50 years of age or older'';

(3) in paragraph (3)—

(A) by striking ''child'' the first place it appears and inserting ''child (including an adult child with mental retardation or a related developmental disability)'';

(B) by striking ''a child by blood or marriage'' and inserting ''such a child by blood, marriage, or adoption''; and

(C) by striking ''60'' and inserting ''55'';

(4) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(5) by inserting after paragraph (1) the following:

''(2) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).''.

SEC. 31. CAREGIVER SUPPORT PROGRAM.

Section 373 of the National Family Support Caregiver Act (42 U.S.C. 3030s–1) is amended—

(1) in subsection (b)(3), by striking ''caregivers to assist'' and all that follows through the end and inserting the following: ''assist the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles;'';

(2) in subsection (c)(2)—

(A) by striking ''(as defined'' and all that follows and inserting a period; and

(B) by adding at the end the following: ''In providing services for family caregivers under this subpart, the State shall give priority for services to family caregivers who provide care for older individuals.''; and

(3) in subsection (d), to read as follows:

''(d) USE OF VOLUNTEERS.—In carrying out this subpart, each area agency on aging shall make use of trained volunteers to expand the provision of the available services described in subsection (b) and shall, if possible, work in coordination with entities carrying out volunteer programs (including programs administered by the Corporation for National and Community Service) designed to provide training, placement, and stipends for volunteers in community service settings.''; and

(4) in subsection (e)(3), by adding at the end the following: ''The reports shall describe any mechanisms used in the State to provide to persons who are family caregivers, or grandparents or older individuals who are relative caregivers, information about and access to various services so that the persons can better carry out their care responsibilities.''; and

(5) in subsection (f)(1), by striking ''2001 through 2005'' and inserting ''2007, 2008, 2009, 2010, and 2011''.

SEC. 32. ACTIVITIES AND PROGRAMS OF NATIONAL SIGNIFICANCE.

Section 376(a) of the National Family Support Caregiver Act (42 U.S.C. 3030s–12(a)) is amended—

(1) by striking the title heading and inserting the following:

"SEC. 376. ACTIVITIES AND PROGRAMS OF NATIONAL SIGNIFICANCE.";

(2) by striking ''(a) IN GENERAL.—'';

(3) by striking ''shall'' and inserting ''may'';

(4) by striking ''program'' and inserting ''activities that include'';

(5) by striking ''research.'' and inserting ''research, and programs that include—

''(1) multigenerational programs, including programs that provide supports for grandparents and other older individuals who are relative caregivers (as defined in section 372) raising children (such as kinship navigator programs), and programs that sustain and replicate innovative multigenerational family support programs involving volunteers who are older individuals;

''(2) programs providing support and information to families who have a child with a disability or chronic illness, and to other families in need of family support programs;

''(3) programs addressing unique issues faced by rural caregivers;

''(4) programs focusing on the needs of older individuals with Alzheimer's disease and related dementia and their caregivers; and

''(5) programs supporting caregivers in the roles the caregivers carry out in health promotion and disease prevention.''; and

(6) by striking subsection (b).

SEC. 33. GRANT PROGRAMS.

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) by redesignating paragraph (9) as paragraph (11); and

(C) by inserting after paragraph (8) the following:

''(9) planning activities to prepare communities for the aging of the population, which activities may include—

''(A) efforts to assess the aging population;

''(B) activities to coordinate the activities of State and local agencies in order to meet the needs of older individuals; and

''(C) training and technical assistance to support States, area agencies on aging, and tribal organizations receiving grants under part A of title VI, in engaging in community planning activities; and

''(10) the development, implementation, and assessment of technology-based service

models and best practices, to support the use of health monitoring and assessment technologies, communication devices, assistive technologies, and other technologies that may remotely connect family and professional caregivers to frail older individuals residing in home and community-based settings or rural areas.''.

SEC. 34. CAREER PREPARATION FOR THE FIELD OF AGING.

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032a(a)) is amended to read as follows:

''(a) GRANTS.—The Assistant Secretary shall make grants to institutions of higher education, including historically Black colleges or universities, Hispanic-serving institutions, Hispanic Centers of Excellence in Applied Gerontology, and other educational institutions that serve the needs of minority students, to provide education and training that prepare students for careers in the field of aging.''.

SEC. 35. HEALTH CARE SERVICE DEMONSTRATION PROJECTS IN RURAL AREAS.

Section 414 of the Older Americans Act of 1965 (42 U.S.C. 3032c) is amended—

(1) in subsection (a), by inserting ''mental health care,'' after ''adult day health care,''; and

(2) in subsection (b)(1)(B)(i), by inserting ''mental health,'' after ''public health,''.

SEC. 36. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

Section 416 of the Older Americans Act of 1965 (42 U.S.C. 3032e) is amended to read as follows:

''SEC. 416. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

''(a) IN GENERAL.—The Secretary may award grants or contracts to nonprofit organizations to improve transportation services for older individuals.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A nonprofit organization receiving a grant or contract under subsection (a) shall use the funds received through such grant or contract to carry out a demonstration project, or to provide technical assistance to assist local transit providers, area agencies on aging, senior centers, and local senior support groups, to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. The organization may use the funds to develop and carry out an innovative transportation demonstration project to create transportation services for older individuals.

''(2) SPECIFIC ACTIVITIES.—In carrying out a demonstration project or providing technical assistance under paragraph (1) the organization may carry out activities that include—

''(A) developing innovative approaches for improving access by older individuals to transportation services, including volunteer driver programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services;

''(B) preparing information on transportation options and resources for older individuals and organizations serving such individuals, and disseminating the information by establishing and operating a toll-free telephone number;

''(C) developing models and best practices for providing comprehensive integrated transportation services for older individuals, including services administered by the Secretary of Transportation, by providing ongoing technical assistance to agencies providing services under title III and by assisting in coordination of public and community transportation services; and

''(D) providing special services to link seniors to transportation services not provided under title III.

''(c) ECONOMICALLY SUSTAINABLE TRANSPORTATION.—In this section, the term 'economically sustainable transportation' means demand responsive transportation for older individuals—

''(1) that may be provided through volunteers; and

''(2) that the provider will provide without receiving Federal or other public financial assistance, after a period of not more than 5 years of providing the services under this section.''.

SEC. 37. COMMUNITY PLANNING.

Title IV of the Older Americans Act of 1965 is amended by inserting after section 416 (42 U.S.C. 3032e) the following:

''SEC. 416A. COMMUNITY PLANNING FOR THE AGING POPULATION.

''The Secretary may establish, either directly or through grants or contracts, a national technical assistance program to assist States and area agencies on aging funded under this Act in planning efforts to prepare communities for the aging of the population.''.

SEC. 38. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.

Section 417 of the Older Americans Act of 1965 (42 U.S.C. 3032f) is amended to read as follows:

''SEC. 417. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.

''(a) GRANTS AND CONTRACTS.—The Assistant Secretary shall award grants and enter into contracts with eligible organizations to—

''(1) conduct productivity and cost-benefit research to determine the effectiveness of engaging older individuals in paid and unpaid positions with public and nonprofit organizations;

''(2) develop a national agenda and blueprint for creating paid and unpaid positions for older individuals with public and nonprofit organizations to increase the capacity of the organizations to provide needed services to communities;

''(3) carry out demonstration and support projects to provide older individuals with multigenerational activities, and civic engagement activities, designed to meet critical community needs; and

''(4) carry out demonstration projects to coordinate multigenerational activities and civic engagement activities, and facilitate development of and participation in multigenerational activities.

''(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under subsection (a)—

''(1)(A) to conduct the research described in subsection (a)(1);

''(B) to develop the national agenda and blueprint described in subsection (a)(2); or

''(C) to carry out a demonstration or support project described in subsection (a)(3);

''(D) to carry out a demonstration project described in subsection (a)(4); and

''(2) to evaluate the project involved in accordance with subsection (f).

''(c) PREFERENCE.—In awarding grants and entering into contracts under subsection (a) to carry out a demonstration or support project described in subsection (a)(3), the Assistant Secretary shall give preference to—

''(1) eligible organizations with a demonstrated record of carrying out multigenerational activities or civic engagement activities;

''(2) eligible organizations proposing multigenerational activity service projects that will serve older individuals and communities with the greatest need (with particular attention to low-income minority older individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities);

''(3) eligible organizations proposing civic engagement activity service projects that will serve communities with the greatest need; and

''(4) eligible organizations with the capacity to develop meaningful roles and assignments that use the time, skills, and experience of older individuals to serve public and nonprofit organizations.

''(d) APPLICATION.—To be eligible to receive a grant or a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

''(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a)—

''(1) to carry out activities described in subsection (a)(1) shall be research or academic organizations with the capacity to conduct productivity and cost-benefit research described in subsection (a)(1);

''(2) to carry out activities described in subsection (a)(2) shall be organizations with the capacity to develop the national agenda and blueprint described in subsection (a)(2);

''(3) to carry out activities described in subsection (a)(3) shall be organizations that provide paid or unpaid positions for older individuals to serve in multigenerational activities, or civic engagement activities, designed to meet critical community needs and use the full range of time, skills, and experience of older individuals; and

''(4) to carry out activities described in subsection (a)(4) shall be organizations with the capacity to facilitate and coordinate activities as described in subsection (a)(4), through the use of multigenerational coordinators.

''(f) LOCAL EVALUATION AND REPORT.—

''(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a demonstration or support project under subsection (a)(3) shall evaluate the multigenerational activities or civic engagement activities assisted under the project to determine the effectiveness of the activities involved, the impact of such activities on the community being served and the organization providing the activities, and the impact of such activities on older individuals involved in such project.

''(2) REPORT.—The organization shall submit a report to the Assistant Secretary containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

''(g) REPORT TO CONGRESS.—Not later than 6 months after the Assistant Secretary receives the reports described in subsection (f)(2), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

''(1) the names or descriptive titles of the demonstration, support, and research projects funded under subsection (a);

''(2) a description of the nature and operation of the projects;

''(3) the names and addresses of organizations that conducted the projects;

''(4) in the case of demonstration and support projects carried out under subsection

(a)(3), a description of the methods and success of the projects in recruiting older individuals as employees and volunteers to participate in the projects;

''(5) in the case of demonstration and support projects carried out under subsection (a)(3), a description of the success of the projects in retaining older individuals involved in the projects as employees and as volunteers;

''(6) in the case of demonstration and support projects carried out under subsection (a)(3), the rate of turnover of older individual employees and volunteers in the projects;

''(7) a strategy for disseminating the findings resulting from the projects described in paragraph (1); and

''(8) any policy change recommendations relating to the projects.

''(h) DEFINITIONS.—As used in this section:

''(1) CIVIC ENGAGEMENT ACTIVITY.—The term 'civic engagement activity' includes an opportunity that uses the time, skills, and experience of older individuals, in paid or unpaid positions with a public or nonprofit organization, to help address the unmet human, educational, health care, environmental, and public safety needs and nurture and sustain active participation in community affairs.

''(2) MULTIGENERATIONAL ACTIVITY.—The term 'multigenerational activity' includes an opportunity that uses the time, skills, and experience of older individuals, in paid or unpaid positions with a public or nonprofit organization, to serve as a mentor or adviser in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, a before- or after-school program, or a family support program.

''(3) MULTIGENERATIONAL COORDINATOR.—The term 'multigenerational coordinator' means a person who—

''(A) builds the capacity of public and nonprofit organizations to develop meaningful roles and assignments, that use the time, skill, and experience of older individuals to serve those organizations; and

''(B) nurtures productive, sustainable working relationships between—

''(i) individuals from the generations with older individuals; and

''(ii) individuals in younger generations.''.

SEC. 39. NATIVE AMERICAN PROGRAMS.

Section 418(a)(2)(B)(i) of the Older Americans Act of 1965 (42 U.S.C. 3032g)(a)(2)(B)(i)) is amended by inserting ''(including mental health)'' after ''health''.

SEC. 40. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.

Section 419 of the Older Americans Act of 1965 (42 U.S.C. 3032h) is amended—

(1) by striking the title and inserting the following:

''SEC. 419. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.'';

(2)(A) in subsection (b)(2), by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) in subsection (c)(2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively; and

(C) by aligning the margins of the clauses described in subparagraphs (A) and (B) with the margins of clause (iv) of section 418(a)(2)(A) of such Act;

(3)(A) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by aligning the margins of the subparagraphs described in subparagraphs (A) and (B) with the margins of subparagraph (D) of section 420(a)(1) of such Act;

(4) in subsection (a), by striking ''(a)'' and all that follows through ''The'' and inserting the following:

''(a) MULTIDISCIPLINARY CENTERS.—

''(1) PROGRAM AUTHORIZED.—The'';

(5) in subsection (b)—

(A) by striking the following:

''(b) USE OF FUNDS.—'' and inserting the following:

''(2) USE OF FUNDS.—''; and

(B) by striking ''subsection (a)'' each place it appears and inserting ''paragraph (1)'';

(6) in subsection (c)—

(A) by striking the following:

''(c) DATA.—'' and inserting the following:

''(3) DATA.—'';

(B) by striking ''subsection (a)'' and inserting ''paragraph (1)'';

(C) by striking ''such subsection'' and inserting ''such paragraph''; and

(D) by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(7) by adding at the end the following:

''(b) MULTIDISCIPLINARY HEALTH SERVICES IN COMMUNITIES.—

''(1) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants to States, on a competitive basis, for the development and operation of—

''(A) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

''(B) programs to—

''(i) increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;

''(ii) reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and

''(iii) reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

''(2) APPLICATION.—To be eligible to receive a grant under this subsection for a State, a State agency shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

''(3) STATE ALLOCATION AND PRIORITIES.—A State agency that receives funds through a grant made under this subsection shall allocate the funds to area agencies on aging to carry out this subsection in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State—

''(A) that are medically underserved; and

''(B) in which there are a large number of older individuals.

''(4) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS.—In carrying out this part, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall—

''(A) coordinate services described in paragraph (1) with other community agencies, and voluntary organizations, providing similar or related services; and

''(B) to the greatest extent practicable, integrate outreach and educational activities with existing (as of the date of the integration) health care and social service providers serving older individuals in the planning and service area involved.

''(5) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this part shall supplement, and not supplant, any Federal, State, and local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide the services described in paragraph (1).

''(6) DEFINITION.—In this subsection, the term 'mental health screening and treatment services' means patient screening, diagnostic services, care planning and oversight, therapeutic interventions, and referrals, that are—

''(A) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals; and

''(B) coordinated and integrated with the services of social service, mental health, and health care providers in an area in order to—

''(i) improve patient outcomes; and

''(ii) ensure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.''.

SEC. 41. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.) is amended by adding at the end the following:

''SEC. 422. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity'—

''(A) means a nonprofit health or social service organization, a community-based nonprofit organization, an area agency on aging or other local government agency, a tribal organization, or another entity that—

''(i) the Assistant Secretary determines to be appropriate to carry out a project under this part; and

''(ii) demonstrates a record of, and experience in, providing or administering group and individual health and social services for older individuals; and

''(B) does not include an entity providing housing under the congregate housing services program carried out under section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011) or the multifamily service coordinator program carried out under section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)).

''(2) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term 'Naturally Occurring Retirement Community' means a residential building, a housing complex, an area (including a rural area) of single family residences, or a neighborhood composed of age-integrated housing—

''(A) where—

''(i) 40 percent of the heads of households are older individuals; or

''(ii) a critical mass of older individuals exists, based on local factors which, taken in total, allow an organization to achieve efficiencies in the provision of health and social services to older individuals living in the community; and

''(B) that is not an institutional care or assisted living setting.

''(b) GRANTS.—

''(1) IN GENERAL.—The Assistant Secretary shall make grants to eligible entities to enable the entities to pay for developing or carrying out model aging in place projects. The projects shall permit aging in place for older individuals, including such individuals who reside in Naturally Occurring Retirement Communities, which help to sustain the independence of older individuals in communities where the individuals have established personal, family, and professional supportive networks. The entities shall provide comprehensive and coordinated health and social services through the projects.

''(2) GRANT PERIODS.—The Assistant Secretary shall make the grants for periods of 3 years.

''(c) APPLICATIONS.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (b) for a project, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

''(2) CONTENTS.—The application shall include—

''(A) a detailed description of the entity's experience in providing services to older individuals in age-integrated settings;

''(B) a definition of the contiguous service area and a description of the project boundaries in which the older individuals reside or carry out activities to sustain their well-being;

''(C) a description of how the entity will cooperate and coordinate planning and services, with agencies and organizations that provide publicly supported services for older individuals within the project boundaries, including the State agency and area agencies on aging with planning and service areas within the project boundaries;

''(D) an assurance that the entity will seek to establish cooperative relationships with interested local entities, including private agencies and businesses that provide health and social services, housing entities, community development organizations, philanthropic organizations, foundations, and other non-Federal entities;

''(E) a description of the entity's protocol for referral of residents who may require long-term care services, including coordination with local information and referral agencies and Aging and Disability Resource Centers who serve as single points of entry to public services;

''(F) a description of how the entity will offer opportunities for older individuals to be involved in the governance, oversight, and operation of the project;

''(G) an assurance that the entity will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require; and

''(H) a plan for long-term sustainability of the project.

''(d) USE OF FUNDS.—

''(1) IN GENERAL.—An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to provide and coordinate, through aging in place projects described in subsection (b), services that include a comprehensive and coordinated array of community-based health and social services, which may include mental health services, for eligible older individuals.

''(2) SERVICES.—The services described in paragraph (1) shall include—

''(A) providing—

''(i) case management, case assistance, and social work services;

''(ii) health care management and health care assistance, including disease prevention and health promotion services;

''(iii) education, socialization, and recreational activities; and

''(iv) volunteer opportunities for project participants; and

''(B) coordinating the services provided under title III for eligible older individuals served by the project.

''(3) PREFERENCE.—In carrying out an aging in place project, an eligible entity shall, to the extent practicable, serve communities of low-income individuals and operate or locate projects and services in or in close proximity to locations where large concentrations of older individuals have aged in place and resided, such as Naturally Occurring Retirement Communities.

''(4) SUPPLEMENT NOT SUPPLANT.—Funds made available to an eligible entity under this section shall be used to supplement, not supplant, any Federal, State, or other funds otherwise available to the entity to provide health and social services to eligible older individuals.

''(e) COMPETITIVE GRANTS FOR TECHNICAL ASSISTANCE.—

''(1) GRANTS.—The Assistant Secretary shall (or shall make a grant, on a competitive basis, to an eligible nonprofit organization, to enable the organization to)—

''(A) provide technical assistance to recipients of grants under subsection (b); and

''(B) carry out other duties, as determined by the Assistant Secretary.

''(2) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant under this subsection, an organization shall be a nonprofit organization (including a partnership of nonprofit organizations), that—

''(A) has experience and expertise in providing technical assistance to a range of entities serving older individuals and experience evaluating and reporting on programs; and

''(B) has demonstrated knowledge of and expertise in community-based health and social services.

''(3) APPLICATION.—To be eligible to receive a grant under this subsection, an organization (including a partnership of nonprofit organizations) shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the organization will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

''(f) REPORT.—The Assistant Secretary shall annually prepare and submit a report to Congress that shall include—

''(1) the findings resulting from the evaluations of the model projects conducted under this section;

''(2) a description of recommended best practices regarding carrying out health and social service projects for older individuals aging in place; and

''(3) recommendations for legislative or administrative action, as the Assistant Secretary determines appropriate.''.

SEC. 42. CHOICES FOR INDEPENDENCE DEMONSTRATION PROJECTS.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.), as amended by section 41, is further amended by adding at the end the following:

''SEC. 423. CHOICES FOR INDEPENDENCE DEMONSTRATION PROJECTS.

''(a) DEFINITIONS.—In this section:

''(1) CONSUMER.—The term 'consumer' means an older individual, a family member of such individual, and any other person seeking information or assistance with respect to long-term care.

''(2) HIGH-RISK INDIVIDUAL.—The term 'high-risk individual' means an older individual who—

''(A) has a functional impairment affecting the individual's activities of daily living;

''(B) is ineligible for the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

''(C) meets such income and functional status criteria as are determined to be appropriate by the State involved and approved by the Assistant Secretary.

''(3) QUALIFIED EXPENDITURES.—The term 'qualified expenditures' means reported expenditures of a State under this section that have been reviewed and approved by the Assistant Secretary.

''(4) SERVICE COORDINATION.—The term 'service coordination' means a coordinated approach taken on behalf of high-risk older individuals to facilitate the development and implementation of a long-term care plan and the choice and independence of the individuals in securing long-term care.

''(b) AUTHORITY.—The Assistant Secretary shall make grants on a competitive basis, in accordance with this section, to States to enable the States to pay for the Federal share of the cost of modifying their systems of long-term care in order to promote and facilitate—

''(1) the choice and control of older individuals and their families in securing long-term care;

''(2) the coordination and cost-effectiveness of State systems of long-term care;

''(3) the provision of long-term care in home and community-based settings; and

''(4) the ability of individuals receiving long-term care to remain as independent and self-sufficient as possible.

''(c) APPLICATIONS BY STATES.—For a State to be eligible to receive a grant under this section, the Governor of such State shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information as the Assistant Secretary may specify, containing a plan for implementation of the component strategies described in subsection (d) and such other information and assurances as the Secretary determines to be appropriate.

''(d) USE OF FUNDS BY STATES.—

''(1) COMPONENT STRATEGIES.—A State that receives funds through a grant made under subsection (b) shall use the funds to carry out a demonstration project under this section (directly or by grant or contract) by integrating into the State's system of long-term care the component strategies described in paragraphs (2) through (5).

''(2) PUBLIC EDUCATION.—In carrying out the demonstration project, the State shall conduct activities that shall include media campaigns, targeted mailings, and related activities, to help ensure that consumers are aware of—

''(A) the need to plan in advance for long-term care;

''(B) available public and private long-term care options, including private long-term care insurance; and

''(C) sources of information and resources related to long-term care, including the resource centers described in paragraph (3).

''(3) AGING AND DISABILITY RESOURCE CENTERS.—

''(A) IN GENERAL.—The State shall provide for community-level Aging and Disability Resource Centers, which, consistent with section 102(47) and subsection (f), shall provide—

''(i) comprehensive information on available public and private long-term care programs, options, and resources;

''(ii) personal counseling and service coordination to assist consumers in assessing their existing or anticipated long-term care needs and circumstances, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances;

''(iii) a convenient point of entry to the range of publicly-supported long-term care programs for which an individual may be eligible, including the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and to such other public benefit programs as the State determines to be appropriate;

''(iv) a single process for consumer intake, assessment, and application for benefits under the programs described in subparagraph (C), including, where appropriate and feasible, facilitating the determination of an individual's eligibility (including facilitating that determination in compliance with the requirements of title XIX of the Social Security Act) under such programs by collaborating with the appropriate programmatic office; and

''(v) the ability—

''(I) to respond immediately to a request for assistance from an individual or a family member of the individual, in the event of a

crisis situation that could result in placement of such individual in an institutional care setting; and

''(II) to provide (or coordinate the provision of), such available short-term assistance as would be necessary and appropriate to temporarily preclude the need for such institutional placement, until a plan for home and community-based long-term care can be developed and implemented.

''(B) TRAINING.—In providing for the Centers, the State shall ensure that the staff of the Centers is appropriately trained to understand the interactions between private long-term care insurance (especially insurance through long-term care partnership policies) and eligibility for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

''(4) HEALTHY LIFESTYLE CHOICES.—The State shall, in accordance with standards established by the Assistant Secretary, provide for low-cost, community-level, evidence-based prevention programs and related tools to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals.

''(5) COMMUNITY LIVING INCENTIVES.—

''(A) IN GENERAL.—The State shall provide funding toward and otherwise assist with the provision of home and community-based long-term care to individuals at high risk for placement in institutional care (referred to in this paragraph as 'high-risk individuals'). The State shall ensure that individuals at greatest risk for becoming eligible for benefits under the Medicaid program receive priority for the home and community-based long-term care.

''(B) LONG-TERM CARE PLAN.—The State shall provide for assessments of the needs and preferences of high-risk individuals with respect to long-term care, and based on such assessments, shall develop with such individuals and their family members, caregivers, or legal representatives a plan for long-term care for such individuals, specifying the types of support, providers, budget, and, if the State elects, cost-sharing contributions involved.

''(C) ALLOCATION OF FUNDS BASED ON INDIVIDUAL BUDGETS.—The State shall ensure that the funding described in subparagraph (A) will be allocated among, and disbursed for, the budgets of high-risk individuals under long-term care plans developed for such individuals.

''(D) OPTION TO PROVIDE CONSUMER-DIRECTED CARE.—The State shall provide high-risk individuals with the option to receive home and community-based long-term care under this paragraph in a manner that permits such individuals to direct and control, in conjunction with a service coordinator, the selection, planning, budgeting, and purchasing of such care (including the amount, duration, scope, providers, and location of such care), to the extent determined appropriate and feasible under the long-term care plan developed under subparagraph (B). The service coordinator shall assist the high-risk individuals in purchasing a range of long-term care services or supplies, not otherwise available or eligible for payment through an entity carrying out a Federal or State program or a similar third party, from a qualified provider that are delivered in home and community-based settings and in a manner that best meets the individuals' needs and respects the individuals' preferences to remain in the least restrictive setting possible.

''(e) FEDERAL SHARE.—The Federal share of the cost of modifying systems of long-term systems care as described in subsection (b) shall be not more than 75 percent of such cost (calculated on an annual basis as the State's qualified expenditures for such modifications for such year).

''(f) SPECIAL PROVISIONS RELATING TO AGING AND DISABILITY RESOURCE CENTERS.—A State shall ensure that any Aging and Disability Resource Center shall—

''(1) fully coordinate its activities with any health insurance information, counseling, and assistance (receiving funding under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4)) in the State;

''(2) be subject to such controls as the Assistant Secretary determines to be appropriate to ensure there is no conflict of interest with respect to any referrals, for information or otherwise, made by the Center for individuals receiving services through the Center; and

''(3) provide no long-term care services or supplies, with the exception of case management services provided through area agencies on aging as described in section 306(a)(8).

''(g) SPECIAL PROVISIONS RELATING TO OPTION TO PROVIDE CONSUMER-DIRECTED CARE.—Payments made for a high-risk individual under subsection (d)(5)(D) shall not be included in the gross income of the high-risk individual for purposes of the Internal Revenue Code of 1986 or be treated as income, be treated as assets or benefits, or otherwise be taken into account, for purposes of determining the individual's eligibility for, the amount of benefits for the individual under, or the amount of cost-sharing required of the individual by, any other Federal or State program, other than the program carried out under this section.

''(h) TECHNICAL ASSISTANCE TO STATES.—The Assistant Secretary, directly or by grant or contract, shall provide for technical assistance to and oversight of States carrying out demonstration projects under this section, for purposes of administration, quality assurance, and quality improvement.

''(i) EVALUATION AND REPORT.—The Assistant Secretary, directly or by grant or contract, shall provide for an evaluation of the demonstration projects carried out under this section. The Assistant Secretary shall submit to the President a report containing the findings resulting from such evaluation not later than 6 months after the termination of the demonstration projects.''.

SEC. 43. RESPONSIBILITIES OF ASSISTANT SECRETARY.

Section 432(c)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3033a(c)(2)(B)) is amended by inserting before the period the following: '', including preparing an analysis of such services, projects, and programs, and of how the evaluation relates to improvements in such services, projects, and programs and in the strategic plan of the Administration''.

SEC. 44. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.

Section 502 of the Older Americans Act of 1965 (42 U.S.C. 3056) is amended—

(1) in subsection (a)(1), by adding at the end the following: ''For purposes of this paragraph, an underemployed person shall be considered to be an unemployed person.'';

(2) in subsection (b)(1)(M), by striking ''minority, limited English-speaking, and Indian eligible individuals, and eligible individuals who have the greatest economic need,'' and inserting ''minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greatest economic need,''; and

(3) by adding at the end the following:

''(g)(1) Except as provided in paragraphs (2) and (3), an eligible individual may participate in projects carried out under this title for a period of not more than 36 months (whether or not consecutive) in the aggregate.

''(2) A grantee for a project may extend the period of participation for not more than 20 percent of the project participants. In selecting participants for the extended period of participation, the grantee shall give priority to—

''(A) participants who are 65 years old or older or frail older individuals; and

''(B) individuals who have more than 1 of the following barriers to employment:

''(i) A disability.

''(ii) Limited English proficiency or low literacy skills.

''(iii) A residence in a rural area.

''(iv) A residence in an area of high unemployment.

''(v) Homelessness or a situation that puts the individual at risk for homelessness.

''(vi) A failure to find employment after utilizing services under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

''(3) A grantee may petition for a waiver of the 36-month limit described in paragraph (1) if the grantee serves a high concentration of individuals who are hard-to-serve individuals because they have more than 1 barrier to employment as described in paragraph (2)(B), including a grantee who operates a project in an area in which at least 60 percent of the counties are rural counties, as defined by the Economic Research Service of the Department of Agriculture.

''(h) It is the sense of the Senate that—

''(1) the older American community service employment program was created with the intent of placing older individuals in community service positions to provide job training placements; and

''(2) placing older individuals in community service positions strengthens the ability of the individuals to become self-sufficient, provides much-needed volunteer support to organizations who benefit significantly from increased civic engagement, and strengthens the communities that are served by such organizations.''.

SEC. 45. PERFORMANCE.

Section 513 of the Older Americans Act of 1965 (42 U.S.C. 3056k) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking the paragraph designation and all that follows through ''grantees'' and inserting the following:

''(1) ESTABLISHMENT AND IMPLEMENTATION OF MEASURES.—The Secretary shall establish and implement, after consultation with the Assistant Secretary, grantees''; and

(ii) by adding at the end the following: ''The Assistant Secretary shall provide recommendations to the Secretary on the establishment and implementation of the performance measures.'';

(B) in paragraph (2)(B), by adding at the end the following:

''(iv) Not less than 60 percent of the counties, in the areas served by the grantee, being rural counties as defined by the Economic Research Service of the Department of Agriculture.

''(v) The areas served by the grantee comprising a difficult to serve territory due to limited economies of scale.''; and

(C) by adding at the end the following:

''(6) SPECIAL RULES.—

''(A) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement the performance measures described in this section, including all required indicators described in subsection (b), not later than 1 year after the date of enactment of the Older Americans Act Amendments of 2006.

''(B) IMPACT ON GRANT COMPETITION.—The Secretary may not publish a notice announcing a grant competition under this title, and

soliciting proposals for grants, until the day that is the later of—

''(i) the date on which the Secretary implements all required indicators described in subsection (b); and

''(ii) January 1, 2010.''; and

(2) by adding at the end the following:

''(e) EFFECT OF EXEMPTION.—In implementing a performance measure under this section, the Secretary shall not reduce a score on the performance measure of—

''(1) a grantee that receives a waiver under section 502(g)(3) on the basis that the grantee is extending the period of participation for project participants under that section; and

''(2) a grantee on the basis that the grantee is extending the period of participation for project participants under section 502(g)(2).''.

SEC. 46. COMPETITIVE REQUIREMENTS.

Section 514 of the Older Americans Act of 1965 (42 U.S.C. 3056l) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) PROGRAM AUTHORIZED.—In accordance with section 502(b), the Secretary shall award grants to eligible applicants, through a competitive process that emphasizes meeting performance measures, to carry out projects under this title for a 4-year period. The Secretary may not conduct a grant competition under this title until the day described in section 513(a)(6)(B).'';

(2) by striking subsection (b) and inserting the following:

''(b) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant as described in subsection (a) if the applicant meets the requirements and criteria described in section 502(b)(1), subsections (c) and (d), and paragraphs (2) and (3) of subsection (e).'';

(3) in subsection (c)—

(A) by redesignating paragraphs (2) through (7) as paragraphs (4) through (9), respectively;

(B) by inserting after paragraph (1) the following:

''(2) The applicant's performance on the required indicators described in section 513(b), in the case of an applicant that has previously received a grant under this title, and the applicant's ability to meet the required indicators, in the case of any other applicant.

''(3) The applicant's ability to administer a program that provides community service.''; and

(C) by striking paragraph (9) and inserting the following:

''(9) The applicant's ability to minimize disruption in services for project participants and the entities employing the participants.

''(10) Any additional criteria that the Secretary may determine to be appropriate.'';

(4) in subsection (e)—

(A) in paragraph (2), by striking subparagraphs (C) and (D); and

(B) in paragraph (3)—

(i) by striking ''(3)'' and all that follows through ''In'' and inserting the following:

''(3) COMPETITION REQUIREMENTS FOR PUBLIC AND PRIVATE NONPROFIT AGENCIES AND ORGANIZATIONS IN A STATE.—In'';

(ii) by striking subparagraphs (B) through (D); and

(iii) by striking ''take corrective action'' and inserting ''provide technical assistance'';

(C) in paragraph (4), by striking ''paragraph (3)(A)'' and inserting ''paragraph (3)'';

(5) in subsection (f), by striking paragraph (4);

(6) by adding at the end the following:

''(g) GRANTEES SERVING INDIVIDUALS WITH BARRIERS TO EMPLOYMENT.—

''(1) DEFINITION.—In this subsection, the term 'individuals with barriers to employment' means minority and Indian individuals, individuals with limited English proficiency, and individuals with greatest economic need.

''(2) SPECIAL CONSIDERATION.—In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant under this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

''(h) MINORITY-SERVING GRANTEES.—The Secretary may not promulgate rules or regulations, affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.''.

SEC. 47. DEFINITIONS.

Section 516(2) of the Older Americans Act of 1965 (42 U.S.C. 3056n(2)) is amended—

(1) in the header, by striking ''INDIVIDUALS'' and inserting ''INDIVIDUAL'' ;

(2) by inserting before ''The term'' the following:

''(A) IN GENERAL.—'';

(3) by striking ''individuals'' and inserting ''individual''; and

(4) by adding at the end the following:

''(B) DETERMINATION OF LOW INCOME.—For purposes of determining income eligibility under subparagraph (A), the Secretary shall not include as income—

''(i) unemployment compensation;

''(ii) benefits received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

''(iii) payments made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs; or

''(iv) 25 percent of the old-age and survivors insurance benefits received under title II of the Social Security Act (42 U.S.C. 401 et seq.).''.

SEC. 48. CLARIFICATION OF MAINTENANCE REQUIREMENT.

(a) IN GENERAL.—Section 614A of the Older Americans Act of 1965 (42 U.S.C. 3057e–1) is amended by adding at the end the following:

''(c) CLARIFICATION.—

''(1) DEFINITION.—In this subsection, the term 'covered year' means fiscal year 2006 or a subsequent fiscal year.

''(2) CONSORTIA OF TRIBAL ORGANIZATIONS.—If a tribal organization received a grant under this part for fiscal year 1991 as part of a consortium, the Assistant Secretary shall consider the tribal organization to have received a grant under this part for fiscal year 1991 for purposes of subsections (a) and (b), and shall apply the provisions of subsections (a) and (b)(1) (under the conditions described in subsection (b)) to the tribal organization for each covered year for which the tribal organization submits an application under this part, even if the tribal organization submits—

''(A) a separate application from the remaining members of the consortium; or

''(B) an application as 1 of the remaining members of the consortium.''.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on October 1, 2005.

SEC. 49. NATIVE AMERICANS CAREGIVER SUPPORT PROGRAM.

Section 643 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended—

(1) in paragraph (1), by striking ''2001'' and inserting ''2007''; and

(2) in paragraph (2), by striking ''$5,000,000'' and all that follows and inserting ''$6,500,000 for fiscal year 2007, $7,000,000 for fiscal year 2008, $7,500,000 for fiscal year 2009, $8,000,000 for fiscal year 2010, and $8,500,000 for fiscal year 2011.''.

SEC. 50. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

Section 702 of the Older Americans Act of 1965 (42 U.S.C. 3058a) is amended by striking ''2001'' each place it appears and inserting ''2007''.

SEC. 51. ELDER ABUSE, NEGLECT, AND EXPLOITATION PREVENTION AMENDMENT.

Section 721 of the Older Americans Act of 1965 (42 U.S.C. 3058i) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

''(2) providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals;''; and

(2) in subsection (e)(2)—

(A) by striking ''subsection (b)(8)(B)(i)'' and inserting ''subsection (b)(9)(B)(i)''; and

(B) by striking ''subsection (b)(8)(B)(ii)'' and inserting ''subsection (b)(9)(B)(ii)''.

SEC. 52. NATIVE AMERICAN ORGANIZATION PROVISIONS.

Section 751(d) of the Older Americans Act of 1965 (42 U.S.C. 3058aa(d)) is amended by striking ''2001'' and inserting ''2007''.

SEC. 53. ELDER JUSTICE PROGRAMS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To assist States and Indian tribes in developing a comprehensive multi-disciplinary approach to elder justice.

(2) To promote research and data collection that will fill gaps in knowledge about elder abuse, neglect, and exploitation.

(3) To support innovative and effective activities of service providers and programs that are designed to address issues relating to elder abuse, neglect, and exploitation.

(4) To assist States, Indian tribes, and local service providers in the development of short- and long-term strategic plans for the development and coordination of elder justice research, programs, studies, training, and other efforts.

(5) To promote collaborative efforts and diminish overlap and gaps in efforts in developing the important field of elder justice.

(b) ELDER JUSTICE.—Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.) is amended—

(1) by redesignating subtitles B and C as subtitles C and D, respectively;

(2) by redesignating sections 751, and 761 through 764, as sections 761, and 771 through 774, respectively; and

(3) by inserting after subtitle A the following:

"Subtitle B—Elder Justice Programs

"SEC. 751. DEFINITIONS.

''In this subtitle:

''(1) CAREGIVER.—The term 'caregiver' means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder.

''(2) DIRECT CARE.—The term 'direct care' means care by an employee or contractor who provides assistance or long-term care services to a recipient.

''(3) ELDER.—The term 'elder' means an older individual, as defined in section 102.

''(4) ELDER JUSTICE.—The term 'elder justice' means—

''(A) efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect,

and exploitation and to protect elders with diminished capacity while maximizing their autonomy; and

''(B) from an individual perspective, the recognition of an elder's rights, including the right to be free of abuse, neglect, and exploitation.

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means a State or local government agency, Indian tribe, or any other public or private entity, that is engaged in and has expertise in issues relating to elder justice.

''(6) FIDUCIARY.—The term 'fiduciary'—

''(A) means a person or entity with the legal responsibility—

''(i) to make decisions on behalf of and for the benefit of another person; and

''(ii) to act in good faith and with fairness; and

''(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

''(7) GRANT.—The term 'grant' includes a contract, cooperative agreement, or other mechanism for providing financial assistance.

''(8) LAW ENFORCEMENT.—The term 'law enforcement' means the full range of potential responders to elder abuse, neglect, and exploitation including—

''(A) police, sheriffs, detectives, public safety officers, and corrections personnel;

''(B) prosecutors;

''(C) medical examiners;

''(D) investigators; and

''(E) coroners.

''(9) LONG-TERM CARE.—

''(A) IN GENERAL.—The term 'long-term care' means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

''(B) LOSS OF CAPACITY FOR SELF-CARE.—For purposes of subparagraph (A), the term 'loss of capacity for self-care' means an inability to engage effectively in activities of daily living, including eating, dressing, bathing, and management of one's financial affairs.

''(10) LONG-TERM CARE FACILITY.—The term 'long-term care facility' means a residential care provider that arranges for, or directly provides, long-term care.

''(11) NURSING FACILITY.—The term 'nursing facility' has the meaning given such term under section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

''(12) STATE LEGAL ASSISTANCE DEVELOPER.—The term 'State legal assistance developer' means an individual described in section 731.

''(13) STATE LONG-TERM CARE OMBUDSMAN.—The term 'State Long-Term Care Ombudsman' means the State Long-Term Care Ombudsman described in section 712(a)(2).

''SEC. 752. STATE AND TRIBAL GRANTS TO STRENGTHEN LONG-TERM CARE AND PROVIDE ASSISTANCE FOR ELDER JUSTICE PROGRAMS.

''(a) GRANTS.—The Assistant Secretary may award grants to States and Indian tribes to enable the States and tribes to strengthen long-term care and provide assistance for elder justice programs.

''(b) APPLICATION.—To be eligible to receive a grant under this subtitle, a State or Indian tribe shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

''(c) USE OF FUNDS.—A State or Indian tribe that receives a grant under this subtitle may use the funds made available through the grant to award grants—

''(1) to eligible entities for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation;

''(2) to eligible entities to examine various types of elder shelters (in this paragraph referred to as 'safe havens'), and to test various safe haven models for establishing safe havens (at home or elsewhere), that—

''(A) recognize autonomy and self-determination, and fully protect the due process rights of elders; and

''(B)(i) provide a comprehensive, culturally sensitive, and multidisciplinary team response to allegations of elder abuse, neglect, or exploitation;

''(ii) provide a dedicated, elder-friendly setting;

''(iii) have the capacity to meet the needs of elders for care; and

''(iv) provide various services including—

''(I) nursing and forensic evaluation;

''(II) therapeutic intervention;

''(III) victim support and advocacy; and

''(IV) case review and assistance to make the elders safer at home or to find appropriate placement in safer environments, including shelters, and, in some circumstances long-term care facilities, other residential care facilities, and hospitals;

''(3) to eligible entities to establish or continue volunteer programs that focus on the issues of elder abuse, neglect, and exploitation, or to provide related services;

''(4) to eligible entities to support multidisciplinary elder justice activities, such as—

''(A) supporting and studying team approaches for bringing a coordinated multidisciplinary or interdisciplinary response to elder abuse, neglect, and exploitation, including a response from individuals in social service, health care, public safety, and legal disciplines;

''(B) establishing a State or tribal coordinating council, which shall identify the individual State's or Indian tribe's needs and provide the Secretary with information and recommendations relating to efforts by the State or Indian tribe to combat elder abuse, neglect, and exploitation;

''(C) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts at the State or Indian tribe level (referred to in some States as 'State Working Groups');

''(D) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of other States, Indian tribes, and communities; or

''(E) carrying out such other interdisciplinary or multidisciplinary efforts as the Assistant Secretary determines to be appropriate;

''(5) to eligible entities to provide training for individuals with respect to issues of elder abuse, neglect, and exploitation, consisting of—

''(A) training within a discipline; or

''(B) cross-training activities that permit individuals in multiple disciplines to train together, fostering communication, coordinating efforts, and ensuring collaboration;

''(6) to eligible entities to address underserved populations of elders, such as—

''(A) elders living in rural locations;

''(B) elders in minority populations; or

''(C) low-income elders;

''(7) to eligible entities to provide incentives for individuals to train for, seek, and maintain employment providing direct care in a long-term care facility, such as—

''(A) to eligible entities to provide incentives to participants in programs carried out under part A of title IV, and section 403(a)(5), of the Social Security Act (42 U.S.C. 601 et seq., 603(a)(5)) to train for and seek employment providing direct care in a long-term care facility;

''(B) to long-term care facilities to carry out programs through which the facilities—

''(i) offer, to employees who provide direct care to residents of a long-term care facility, continuing training and varying levels of professional certification, based on observed clinical care practices and the amount of time the employees spend providing direct care; and

''(ii) provide, or make arrangements with employers to provide, bonuses or other increased compensation or benefits to employees who achieve professional certification under such a program; or

''(C) to long-term care facilities to enable the facilities to provide training and technical assistance to eligible employees regarding management practices using methods that are demonstrated to promote retention of employees of the facilities, such as—

''(i) the establishment of basic human resource policies that reward high performance, including policies that provide for improved wages and benefits on the basis of job reviews; or

''(ii) the establishment of other programs that promote the provision of high quality care, such as a continuing education program that provides additional hours of training, including on-the-job training, for employees who are certified nurse aides;

''(8) to encourage the establishment of eligible partnerships to develop collaborative and innovative approaches to improve the quality of, including preventing abuse, neglect, and exploitation in, long-term care; or

''(9) to eligible entities to establish multidisciplinary panels to address and develop best practices concerning methods of—

''(A) improving the quality of long-term care; and

''(B) addressing abuse, including resident-to-resident abuse, in long-term care.

''(d) ADMINISTRATIVE EXPENSES.—A State or Indian tribe that receives a grant under this section shall not use more than 5 percent of the funds made available through the grant to pay for administrative expenses.

''(e) SUPPLEMENT NOT SUPPLANT.—Funds made available pursuant to this section shall be used to supplement and not supplant other Federal, State, and local (including tribal) funds expended to provide activities described in subsection (c).

''(f) MAINTENANCE OF EFFORT.—The State or Indian tribe, in using the proceeds of a grant received under this section, shall maintain the expenditures of the State or tribe for activities described in subsection (c) at a level equal to not less than the level of such expenditures maintained by the State or tribe for the fiscal year preceding the fiscal year for which the grant is received.

''(g) ACCOUNTABILITY MEASURES.—The Assistant Secretary shall develop accountability measures to ensure the effectiveness of the activities conducted using funds made available under this section, including accountability measures to ensure that the activities described in subsection (c)(7) benefit eligible employees and increase the stability of the long-term care workforce.

''(h) EVALUATING PROGRAMS.—The Assistant Secretary shall evaluate the activities conducted using funds made available under this section and shall use the results of such evaluation to determine the activities for which funds made available under this section may be used.

''(i) COMPLIANCE WITH APPLICABLE LAWS.—In order to receive funds under this section, an entity shall comply with all applicable laws, regulations, and guidelines.

''(j) ELIGIBLE PARTNERSHIPS.—In subsection (c)(8), the term 'eligible partnership' means a multidisciplinary community partnership consisting of eligible entities or appropriate individuals, such as a partnership consisting of representatives in a community of nursing facility providers, State legal assistance developers, advocates for residents of long-term care facilities, State Long-Term Care Ombudsmen, surveyors, the State agency with responsibility for adult protective services, the State agency with responsibility for licensing long-term care facilities, law enforcement agencies, courts, family councils, residents, certified nurse aides, registered nurses, physicians, and other eligible entities and appropriate individuals.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2005 through 2008.

''SEC. 753. COLLECTION OF UNIFORM NATIONAL DATA ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

''(a) PURPOSE.—The purpose of this section is to improve, streamline, and promote uniform collection, maintenance, and dissemination of national data relating to the various types of elder abuse, neglect, and exploitation.

''(b) PHASE I.—

''(1) IN GENERAL.—Not later than the date that is 1 year after the date of enactment of the Older Americans Act Amendments of 2006, the Assistant Secretary, acting through the head of the Office of Elder Abuse Prevention and Services, after consultation with the Attorney General and working with experts in relevant disciplines from the Bureau of Justice Statistics of the Office of Justice Programs of the Department of Justice, shall—

''(A) develop a method for collecting national data regarding elder abuse, neglect, and exploitation; and

''(B) develop uniform national data reporting forms adapted to each relevant entity or discipline (such as health, public safety, social and protective services, and law enforcement) reflecting—

''(i) the distinct manner in which each entity or discipline receives and maintains information; and

''(ii) the sequence and history of reports to or involvement of different entities or disciplines, independently, or the sequence and history of reports from 1 entity or discipline to another over time.

''(2) FORMS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the national data reporting forms described in paragraph (1)(B) shall incorporate the definitions of section 751, for use in determining whether an event is reportable.

''(B) PROTECTION OF PRIVACY.—In pursuing activities under this paragraph, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and State and local privacy regulations (as applicable).

''(c) PHASE II.—

''(1) IN GENERAL.—Not later than the date that is 1 year after the date on which the activities described in subsection (b)(1) are completed, the Secretary (or the Secretary's designee) shall ensure that the national data reporting forms and data collection methods developed in accordance with such subsection are pilot tested in 6 States selected by the Secretary.

''(2) ADJUSTMENTS TO THE FORM AND METHODS.—The Secretary, after considering the results of the pilot testing described in paragraph (1) and consultation with the Attorney General and relevant experts, shall adjust the national data reporting forms and data collection methods as necessary.

''(d) PHASE III.—

''(1) DISTRIBUTION OF NATIONAL DATA REPORTING FORMS.—After completion of the adjustment to the national data reporting forms under subsection (c)(2), the Secretary shall submit the national data reporting forms along with instructions to—

''(A) the heads of the relevant components of the Department of Health and Human Services, the Department of Justice, and the Department of the Treasury, and such other Federal entities as may be appropriate; and

''(B) the Governor's office of each State for collection from all relevant State entities of data, including health care, social services, and law enforcement data.

''(2) DATA COLLECTION GRANTS.—

''(A) AUTHORIZATION.—The Secretary is authorized to award grants to States to improve data collection activities relating to elder abuse, neglect, and exploitation.

''(B) APPLICATION.—To be eligible to receive a grant under this paragraph, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(C) REQUIREMENTS.—Each State receiving a grant under this paragraph for a fiscal year shall report data for the calendar year that begins during that fiscal year, using the national data reporting forms described in paragraph (1).

''(D) FUNDING.—

''(i) FIRST YEAR.—For the first fiscal year for which a State receives grant funds under this subsection the Secretary shall initially distribute 50 percent of such funds. The Secretary shall distribute the remaining funds at the end of the calendar year that begins during that fiscal year, if the Secretary determines that the State has properly reported data required under this subsection for the calendar year.

''(ii) SUBSEQUENT YEARS.—Except as provided in clause (i), the Secretary shall distribute grant funds to a State under this subsection for a fiscal year if the Secretary determines that the State properly reported data required under this subsection for the calendar year that ends during that fiscal year.

''(3) REQUIRED INFORMATION.—Each report submitted under this subsection shall—

''(A) indicate the State and year in which each event occurred; and

''(B) identify the total number of events that occurred in each State during the year and the type of each event.

''(e) REPORT.—Not later than 1 year after the date of enactment of the Older Americans Act Amendments of 2006 and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress, including to the Committee on Health Education, Labor, and Pensions and the Special Committee on Aging of the Senate, a report regarding activities conducted under this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007, 2008, 2009, 2010, and 2011.''.

SEC. 54. RULE OF CONSTRUCTION.

Subtitle C of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.) is amended by adding at the end the following:

''SEC. 765. RULE OF CONSTRUCTION.

''Nothing in this title shall be construed to interfere with or abridge the right of an older individual to practice the individual's religion through reliance on prayer alone for healing, in a case in which a decision to so practice the religion—

''(1) is contemporaneously expressed by the older individual—

''(A) either orally or in writing;

''(B) with respect to a specific illness or injury that the older individual has at the time of the decision; and

''(C) when the older individual is competent to make the decision;

''(2) is set forth prior to the occurrence of the illness or injury in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

''(3) may be unambiguously deduced from the older individual's life history.''.

Mr. KENNEDY. Mr. President, the Older Americans Act has been a lifeline for senior citizens across the country for 40 years, and all of us want it to continue to fulfill its important role in the years ahead.

Like Social Security, Medicare and Medicaid, the Older Americans Act is part of our commitment to care for the nation's seniors in their golden years.

This year, the first of the members of the baby boom generation will be eligible for the act's services. One in nine Americans are over age 65 today. By the year 2030, the number will be one in five.

It is clear we need to get our priorities right in this reauthorization. That means starting now to put the infrastructure in place to provide services to baby boomers who retire. This bill takes some of the necessary steps. It requires State and local agencies to acknowledge the changing demographics and to plan ahead. I hope Congress will continue to build on these efforts in the coming years and provide increased funds for the important programs in this act.

Our bill also encourages civic activities by seniors. Numerous examples exist of successful volunteer programs involving seniors, such as Senior Corps, Experience Corps, and Family Friends, and we need to build on these successes.

The members of the new generation of older Americans obviously want to be engaged in their communities after they retire, and it is essential to draw on their experience and knowledge in constructive ways.

The bill is also intended to encourage good nutrition, healthy living and disease prevention among seniors. The Meals on Wheels program, enacted in the 1970s, is one of its greatest successes, and Massachusetts has been in the forefront of the effort to provide community-based nutrition services to the elderly. Our State program coordinates 28 nutrition projects throughout the State to deal with poor nutrition and social isolation of seniors. Our bill will expand the ability of programs such as Meals on Wheels to reach all older individuals who need better nutrition.

According to the Census Bureau, 6.7 million persons aged 55 or older will be living in poverty by 2008, a 22 percent increase since 2000. By 2015, the number will increase to 9 million if the current trend continues.

The Older Americans Act also provides essential opportunities for employment of older Americans through the Senior Community Service Employment Program, which offers job training for seniors and involves them in the communities which they love, and which also love them. Last year, the program supported 61,000 jobs and served 92,000 people.

Congress created this program to provide older adults with community service opportunities. We recognized that senior citizens are especially valuable assets to the communities in which they live. Through community service, older adults are also provided with the job training they need to become self-sufficient in the workforce.

Unfortunately, in recent years the focus on community service has blurred, and many of us are concerned about the administration's lack of interest in maintaining this important aspect of the program.

Older Americans today provide 45 million hours of valuable service to their communities, particularly in senior centers, public libraries, and nutrition programs.

Overall, our bill maintains the emphasis on community service and enables the program to continue to serve older Americans efficiently and well. As this bill moves forward, it is essential that community service remain paramount and that any attempts to weaken this program be defeated.

This is a good bipartisan bill and I support its passage.

Mr. DEWINE. Mr. President, I rise today with my colleagues on the Health, Education, Labor, and Pensions Committee—Chairman ENZI, Ranking Member KENNEDY, and Senator MIKULSKI—as we join in the introduction of the Older Americans Act Amendments of 2006. Senator MIKULSKI and I worked to draft and pass the Older Americans Act Amendments of 2000, and I am proud to have worked with her again to improve and update these important programs.

I also thank Senators ENZI and KENNEDY for making this reauthorization a priority for the HELP Committee. Over the months we have negotiated this bipartisan bill, I have greatly appreciated their thoughtful and steady work to get the Older Americans Act to this point. They understand well, as I do, that the quick passage of this reauthorization is the No. 1 recommendation that came out of the White House Conference on Aging. As I have mentioned in the hearings I have chaired of the Subcommittee on Retirement Security and Aging, the passage of the Older Americans Act reauthorization is the top priority for the subcommittee. Today's bill introduction is an important step forward in that process.

As you know, older Americans are a vital and rapidly growing segment of our population. Over 36 million people living in the United States are over the age of 65, accounting for about 12 percent of the population. The Census Bureau projects that 45 years from now, people 65 and older will number nearly 90 million in the United States and comprise 21 percent of the population.

The Older Americans Act is an important service provider for these Americans. I strongly believe this reauthorization updates and strengthens the act in many ways. Changes to this bill include plans and means to prepare for changes to the aging demographics. This bill creates a Federal interagency council responsible for ensuring appropriate planning for baby boomer-related needs and population shifts across agencies. Additionally, it will provide for grants and technical assistance for local aging service providers to plan for the baby boomer population.

Our bill will also increase the authorization levels of the National Family Caregiver Support Program by 25 percent over current appropriated levels over the next 5 years. This program is also expanded to allow for those caring for loved ones with Alzheimer's—between the ages of 50 and 60—to become eligible for support services. Furthermore, it will clarify that this program will serve elderly caregivers who are caring for their adult children with developmental disabilities. Lastly, it clarifies that grandparents caring for adopted grandchildren are covered under this program, and it lowers the age threshold for grandparents to 55 years old. These are important changes to this program and will affect the quality of life for so many individuals who are struggling with the pressures of caring for loved ones.

This bill also encourages the voluntary contributions related to title III services from those individuals with a self-declared income at or above 200 percent of the poverty level and based on actual cost of service. This will help programs such as Meals-on-Wheels to expand their services and enable them to more effectively take contributions from those older Americans willing to pay for services. As the number of seniors increases, we need to modify our programs to ensure their economic sustainability.

Our amendments will also allow the Department of Health and Human Services to award grants related to the improvement of assistive technology for older Americans. The goal of this provision is to enable older Americans to have the necessary technology to monitor their health and help them remain in their homes as they age. We know most Americans want to remain independent and in their homes as they age, and these grants will help them do just that.

This bill also creates a new grant program which provides grants to create innovative models that allow individuals to remain in community-based settings. The need for this grant program was discussed at length in a hearing I held on models for aging in place—specifically naturally occurring retirement communities. As I stated before, Americans want to stay in their communities as they age, and this bill will help them do just that.

Further, this bill creates a new grant program, based on recommendations in the President's fiscal year '07 budget, to provide grants to States to enable consumer-driven choices with respect to long-term care. Grants can be used to encourage the planning for long-term care for older Americans. It will also facilitate access to long-term care choices and opportunities and advice on choices for care.

Our bill also updates the title V Senior Community Service Employment Program, SCSEP, to allow for a mandatory 4-year competitive grant cycle. It provides a sense of the Senate supporting the community service aspect of the program. Additionally, it limits the time on the program for participants to 3 years, with a 20-percent exemption for certain hard-to-serve populations.

This provision balances the need for limiting the time a person spends in this employment program with the recognition that certain populations have special needs.

Of great importance to me, this bill also amends the act to focus attention on the mental health needs of older Americans. These changes will establish grants for mental health screening of older Americans and increased awareness of its effects on the elderly population. Too often the mental health needs of older Americans are overlooked; however, they can be as serious and life-threatening as any other illness. The mental health needs of our seniors must be taken more seriously and dealt with more aggressively. I believe this provision significantly moves us forward in this struggle.

Finally, this bill includes the language of the Elder Justice bill reported unanimously from the HELP Committee in the 108th Congress to create an office of elder abuse prevention in the administration on Aging; create grants to the States and tribes to prevent elder abuse, neglect, and exploitation; and collect data from States and other entities on elder abuse. These are important provisions to improve the safety and protect the well-being of our parents, grandparents, and other elderly loved ones.

Again, I thank Senator ENZI, Senator KENNEDY, and Senator MIKULSKI for their dedication to the needs of older Americans. I look forward to our continuing work together on this bill as we work to bring it to the Senate floor and the President's desk.

Ms. MIKULSKI. Mr. President, I rise today to support older Americans. Seniors today are living longer, healthier lives. We must do what we can to help them be as independent and active as possible.

We have worked together on both sides of the aisle and with aging organizations, including the organizations that make up the Leadership Council on Aging, to introduce S.3570, the Older

Americans Act Amendments of 2006, which I believe is a strong bipartisan bill. I would like to thank Chairman ENZI, Ranking Member KENNEDY, and Senator DEWINE for their work. I have worked closely with Senator DEWINE in the past, and this is the second Older Americans Act that we have reauthorized together. This bill honors and maintains the commitment we made to the nation's seniors through the Older Americans Act.

The Older Americans Act is one of our most important responsibilities. The 1,200 delegates to the December 2005 White House Conference on Aging voted reauthorization of the act this year as their top priority. I am pleased that we were able to produce this bipartisan bill, but we still have work to do before the Older Americans Act is reauthorized.

We need to continue to work on the Community Service Employment Program for Older Americans, in title V. Much of our bill is quite similar to what the House passed last week, but title V is not. Our bill has maintained the strong community service employment aspect of the program, which has been an integral component since the beginning. The House bill has elements that will minimize and chip away at this community service employment element. The Community Service Employment Program for Older Americans helps seniors obtain employment at Meals on Wheels programs, senior centers, local area agencies on aging, public libraries, and many other public organizations that rely heavily on these seniors. Through community service employment, community organizations receive valuable support while participants receive valuable skill training. I am strongly opposed to losing the community service aspect of this program, and I am pleased our bill strengthens it. I expect that we will continue to protect this as we move to work with the House.

There are several principles that I believe must guide reauthorization. First, we must continue and improve the core services of this act to meet the vital needs of America's seniors. Secondly, we must modernize the act to meet the changing needs of America's senior population, including the growing number of seniors over 85, the impending senior boom, and the growing number of seniors in minority groups. Next, we must look for ways to help seniors live more independent and active lives. Finally, we must give national, State, and local programs the resources they need to carry out these vital responsibilities.

I believe the 2006 reauthorization bill strengthens current Older Americans Act programs and offers innovative ideas that will address the needs of our country's aging population. The reauthorization bill strengthens information and referral services that are the backbone of OAA programs, providing seniors and their family members information about supportive services and information needed to prepare for long-term care. Our bill also strengthens elder abuse programs.

The reauthorization bill also improves the core services of the Older Americans Act. Seniors have come to depend on the information and referral services, congregate and home-delivered meals, transportation, home care, and other OAA programs to meet their daily needs. Whether it is pension counseling or the long-term care ombudsman program—these are vital to helping seniors navigate the complex financial and health care systems. Not all seniors have family and friends that can assist them with complicated decisions, like choosing a long-term care insurance plan or a nursing home. These programs put information in terms seniors can understand. These programs are a safety net for many.

I am especially pleased that this bill authorizes programs to encourage community innovation to support and enhance the ability of seniors to age in place. Seniors will be able to remain in their homes and communities, close to family and friends by providing them necessary supporting services such as transportation, social work services, and health programs to help seniors remain independent and in their communities. Grant program will encourage innovation and build on the success of naturally occurring retirement communities, NORC, programs. NORC programs have been developed at the local level and have a proven record of success. We heard from successful programs in Maryland, Ohio, and New York at the Subcommittee on Aging hearing on NORCs last month. I thank them again for their work and leadership. I always say that the best ideas come from the people, and this is one of the best I have seen in a long time.

This bill also improves the National Family Caregiver Support Program. With the reauthorization of OAA in 2000, we worked hard to create the National Family Caregiver Support Program. In 2003, this program provided assistance to nearly 600,000 caregivers. Services include respite care, caregiver counseling and training, information about available resources, and assistance in locating services. These services are invaluable to seniors and their families. We have worked with the aging community to expand these services. Upon the advice of the Alzheimer's Association our bill lowers the age eligibility for the program for individuals with Alzheimer's from 60 to 50, allowing more individuals with Alzheimer's to qualify for services. Our bill also lowers the age of eligible grandparents to 55. This allows the program to target services to those who need it most.

Our bill also seeks to improve emergency preparedness for seniors. During Hurricanes Katrina and Rita, who was left behind? The elderly, the sick, the disabled. We must plan for their needs and use the senior network that exists in our country to make sure that they are not forgotten. Our bill requires States and Area Agencies on Aging to coordinate to develop plans and establish guidelines for addressing the senior population during a disaster/emergency.

I believe that this bipartisan reauthorization bill honors and maintains the commitment Congress made to our Nation's seniors through the Older Americans Act when it was first created in 1965. Reauthorization of this program for America's seniors and their families is one of our most important responsibilities. I look forward to continuing to work to get a bill passed this year. It is an important responsibility that we have to our Nation's seniors.

By Mr. KOHL (for himself, Mr. LEAHY, Mr. GRASSLEY, and Mr. SCHUMER):

S. 3852. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on Commerce, Science, and Transportation.

Mr. KOHL. Mr. President, yesterday, the Supreme Court refused to consider an appeal by the Federal Trade Commission to reinstate antitrust charges against a brand-name drugmaker. This decision leaves the FTC powerless to stop one of the more egregious tactics used by brand name drug companies to keep generic competitors off the market, leaving consumers with unnecessary high drug prices.

The way it is done is simple—a drug company that holds a patent on a blockbuster brand-name drug, pays a generic drug maker off to delay the sale of a competing generic product that might dip into their profits. The brand name company profits so much by delaying competition that it can easily afford to pay off the generic company, leaving consumers the big losers who continue to pay unnecessarily high drug prices.

Since the appeals court decision, there has been a sharp rise in the number of settlements in which brand-name companies payoff generic competitors to keep their cheaper drugs off the market. In a report issued earlier this year, the FTC found that more than two-thirds of the 10 settlement agreements made in 2006 included a pay-off from the brand in exchange for a promise by the generic company to delay entry into the market.

Yesterday's decision by the Supreme court is a blow to consumers who save billions of dollars on generics every year. Today I am joined by Senators LEAHY, GRASSLEY, and SCHUMER, to introduce the Preserve Access to Affordable Generics Act. This legislation will prohibit these pay-off settlement agreements that only serve the drug companies involved while denying consumers access to cost-saving generic drugs.

According to the Congressional Budget Office, generic drugs save consumers

an estimated $8 to $10 billion every year. And, a recent study released earlier this year by Pharmaceutical Care Management Association, showed that health plans and consumers could save $26.4 billion over the next 5 years by using the generic versions of 14 popular drugs that are scheduled to lose their patent protections before 2010.

Just last week, I was successful in including an additional $10 million in the fiscal year 2007 Agriculture Appropriations bill for the Food and Drug Administration's Office of Generic Drugs, an effort to help reduce the growing backlog of generic drug applications. The FDA Office of Generic Drugs has reported a backlog of more than 800 generic drug applications and more applications for new generics were received in December 2005 than ever before and this trend continues to grow.

But even approval by the FDA doesn't always guarantee that consumers will have access to these affordable drugs. Of the six approved first generics for popular brand-name drugs taken by seniors over the last year, only two have actually reached the market, while the others are being kept off of the shelves by patent disputes.

Mr. President, it is time to stop these drug company payoffs that only serve the companies involved and deny consumers to affordable generic drugs. I urge my colleagues to join me in this effort. I ask unanimous consent that the text of the bill be printed into the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preserve Access to Affordable Generics Act''.

SEC. 2. UNFAIR COMPETITION.

Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

''(o)(1) It shall be considered an unfair method of competition affecting commerce under subsection (a)(1) for a person, in connection with the sale of a drug product, to directly or indirectly be a party to any agreement resolving or settling a patent infringement claim in which—

''(A) an ANDA filer receives anything of value; and

''(B) the ANDA filer agrees not to research, develop, manufacture, market, or sell the ANDA product for any period of time.

''(2) CONSTRUCTION.—Nothing in this subsection shall prohibit a resolution or settlement of patent infringement claim in which the value paid by the NDA holder to the ANDA filer as a part of the resolution or settlement of the patent infringement claim includes no more than the right to market the ANDA product prior to the expiration of the patent that is the basis for the patent infringement claim.

''(3) In this subsection:

''(A) The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

''(B) The term 'ANDA filer' means a party who has filed an ANDA with the Federal Drug Administration.

''(C) The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

''(D) The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

''(E) The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

''(F) The term 'NDA holder' means—

''(i) the party that received FDA approval to market a drug product pursuant to an NDA;

''(ii) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

''(iii) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subclauses (i) and (ii) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

''(G) The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

''(H) The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.''.

Mr. LEAHY. Mr. President. I am pleased to introduce, with Senators KOHL, GRASSLEY, and SCHUMER, the Preserve Access to Affordable Generics Act of 2006, S. 3582. It is no secret that prescription drug prices are rapidly increasing and are a source of considerable concern to many Americans, especially senior citizens and families. In a marketplace free of manipulation, generic drug prices can be as much as 80 percent lower than the comparable brand-name version. Unfortunately, there are still some companies that may be keeping low-cost, life-saving generic drugs off the marketplace, off pharmacy shelves, and out of the hands of consumers by carefully crafted anticompetitive agreements between drug manufacturers. This bipartisan bill will improve the timely and effective introduction of generic pharmaceuticals into the marketplace.

In 2001, and last Congress, I introduced a related bill, the Drug Competition Act. That bill, which is now law, is small in terms of length but large in terms of impact. It ensured that law enforcement agencies could take quick and decisive action against companies seeking to cheat consumers by delaying availability of generic medicines. It gave the Federal Trade Commission and the Justice Department access to information about secret deals between drug companies that keep generic drugs out of the market—a practice that not only hurts American families, particularly senior citizens, by denying them access to low-cost generic drugs but also contributes to rising medical costs.

The Drug Competition Act, which was incorporated in the Medicare Modernization Act, was a bipartisan effort to protect consumers in need of patented medicines who were being forced to pay considerably higher costs because of collusive secret deals. It is regrettable that we must come to the floor again today and take additional action to prevent drug companies from continuing to find and exploit loopholes.

I had faith that we were on the right track. However, two appellate court decisions from 2005 overturned the FTC's longstanding role of ''policing'' these activities and making case-by-case determinations on the appropriateness of proposed settlements, especially those that involved ''reverse'' payments. That refers to payments from a brand-name company to a generic company as opposed to payments from a generic company to the brand-name company for a license to make a particular patented drug.

The FTC rightfully sought U.S. Supreme Court review of the Schering-Plough v. FTC Eleventh Circuit decision. Unfortunately, the Supreme Court refused to hear that case, leaving in doubt the continuing role of the FTC in policing settlements between brand-name drug companies and potential generic competitors. Moreover, in an unprecedented move, the U.S. Solicitor General opposed the request by the FTC for the Supreme Court to hear this case. The inaction of the courts and the choice of the administration to side with large drug companies over seniors and families has provoked us to take action and introduce this important bill.

This matter arises at the intersection of patent law and antitrust law. The drug companies naturally deny that their agreements violate the antitrust laws, presenting them as private preliminary settlements between companies engaged in patent disputes. The problem is that the whole point of the Drug Competition Act is to have an independent body, the FTC, review these deals and to advise the companies if terms or conditions in the deal need to be changed to comply with existing antitrust laws.

Agreements to delay the production and sale of generic medicines in exchange for cash from the brand-name companies need to be carefully reviewed by the FTC under standards that give the FTC authority to act where necessary to enforce antitrust laws. Companies holding patents on medicines should not be permitted to

pay millions of dollars to potential generic competitors for the purpose of delaying the research, development, and sale of competing generic versions of medications when those generic companies believe they have the legal right to sell such products.

I remain hopeful that during the process of working on this bill, a way can be found to give the FTC some discretion, on a case-by case basis, to continue to evaluate these deals. Under this approach, only the deals that are consistent with the intent of that law will be allowed to stand. There will be some deals that involve the payment of money which, on balance, could be good for the companies involved and for consumers. The original intent of the Drug Competition Act was to provide the FTC and DOJ with an opportunity to provide the companies with useful and timely information so the drug companies could conform their deals to the law through confidential advice from the law enforcement agencies. I want that process to be continued.

Senators GRASSLEY, KOHL, SCHUMER, and I are not the only ones who share the goal of ensuring effective and timely access to generic pharmaceuticals that can lower the cost of prescription drugs for seniors, for families, and for all Americans. I sincerely thank my colleagues on both sides of the aisle who are working together on that goal. We have devoted considerable attention to this matter in recent years, and I look forward to passing this important bill.

In closing, I praise the FTC for spending so much time and energy on protecting competition in the pharmaceutical sector. This represents a massive workload for the FTC on top of all its other important responsibilities to protect consumers and the American enterprise system.

Years ago, the FTC dealt with latter-day robber barons destroying smaller companies; now the FTC has to try to restrain corporate drug giants from robbing the elderly when these seniors buy prescription medicines. I also appreciate the work of the FTC on the authorized generics issue and look forward to the report they are preparing for the Congress on that matter.

By Mr. AKAKA:

S. 3584. A bill to amend chapter 41 of title 5, United States Code, to provide for the establishment and authorization of funding for certain training programs for supervisors of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. Mr. President, I rise today to introduce the Federal Supervisor Training Act, FSTA, which addresses the inconsistencies and lack of adequate training for Federal managers and supervisors, especially for new supervisors. The effectiveness and efficiency of government programs and services depend on well-trained managers. It is critical that federal managers receive the support and resources needed to do their jobs.

As new personnel reforms are sought by the administration for Federal workers, which in my view are similar to those I opposed for the Departments of Defense and Homeland Security, I see a general erosion of employee morale. Low employee morale impacts agency performance and undermines the public's trust in government. Therefore, we must consider the needs of supervisors and employees alike. Enhancing supervisory training improves communication, which leads to greater understanding of performance expectations and fewer performance problems. A trained supervisor is the foundation for the success of any personnel system.

The bill I offer today follows recommendations made by the Partnership for Public Service and the newly formed Government Managers Coalition, GMC, which represents over 200,000 Federal managers and executives who are members of the Senior Executives Association, the Federal Managers Association, the Professional Managers Association, the Federal Aviation Administration Managers Association, and the National Council of Social Security Management Associations.

FSTA will require new supervisory training for all new supervisors within a year of being appointed and mandatory retraining every 3 years. Current managers would have 3 years in which to receive initial training. The legislation also requires training on how to mentor employees, a key focus of S. 3476, the Homeland Security Professional Development Act, which I introduced earlier this month. A third provision requires training every three years on the laws governing and the procedures for enforcing whistleblower rights and protections against race, gender, age, and disability discrimination.

Under FSTA, agencies would be required to set standards—based in part on guidelines developed by the Office of Personnel Management, OPM—that supervisors should meet in order to manage employees effectively, assess a manager's ability to meet these standards, and provide training to improve areas identified in personnel assessments.

Supervisors want meaningful training. In my view, such training should not be a discretionary option for agencies. Government managers and employees work on a broad and complex range of issues that are both national and global in scope. From the skilled workers at the Pearl Harbor Naval Shipyard performing nuclear submarine battery change outs to Internal Revenue Service employees collecting back taxes, these Federal workers demonstrate commitment and dedication daily. They understand that trained managers empower them, which in turn improves programs and saves taxpayers money.

Mandatory supervisory training is needed to ensure that agencies provide this support to their managers. OPM once proposed 40 to 80 hours of training for new supervisors, but, over the years, this function has migrated to agencies, which, as the GMC notes, has resulted in inconsistencies in training among Federal agencies, leaving a problem in search of a solution.

As the ranking member of the Senate Federal Workforce Subcommittee, a primary goal of mine is to make the Federal Government an employer of choice and to ensure the American people are served by a skilled workforce. I see FSTA as a means to reach that goal because mandatory supervisory training develops good managers who foster positive work environments that produce an efficient, effective, and responsive government. The Nation's Federal workforce and the American taxpayer deserve no less.

Mr. President, as I stated earlier, supervisors and employees alike benefit from well-trained managers. I want to thank the Government Managers Coalition; the American Federation of Government Employees; the National Treasury Employees Union; the International Federation of Professional and Technical Engineers; the AFL–CIO, Metal Trades Department; as well as the Partnership for Public Service for their support of FSTA and I urge my colleagues to support the federal workforce by cosponsoring my bill. I ask unanimous consent that the text of the bill be printed in the RECORD

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows.

S. 3584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Supervisor Training Act of 2006''.

SEC. 2. MANDATORY TRAINING PROGRAMS FOR SUPERVISORS.

(a) IN GENERAL.—Section 4121 of title 5, United States Code, is amended—

(1) by inserting before ''In consultation with'' the following:

''(a) In this section, the term 'supervisor' means—

''(1) a supervisor as defined under section 7103(a)(10);

''(2) a management official as defined under section 7103(a)(11); and

''(3) any other employee as the Office of Personnel Management may by regulation prescribe.'';

(2) by striking ''In consultation with'' and inserting ''(b) Under operating standards promulgated by, and in consultation with,''; and

(3) by striking paragraph (2) (of the matter redesignated as subsection (b) as a result of the amendment under paragraph (2) of this subsection) and inserting the following:

''(2)(A) a program to provide interactive instructor-based training to supervisors on actions, options, and strategies a supervisor may use in—

''(i) developing and discussing relevant goals and objectives together with the employee, communicating and discussing progress relative to performance goals and

objectives and conducting performance appraisals;

''(ii) mentoring and motivating employees and improving employee performance and productivity;

''(iii) effectively managing employees with unacceptable performance; and

''(iv) otherwise carrying out the duties or responsibilities of a supervisor;

''(B) a program to provide interactive instructor-based training to supervisors on the prohibited personnel practices under section 2302 (particularly with respect to such practices described under subsection (b) (1) and (8) of that section) and the procedures and processes used to enforce employee rights; and

''(C) a program under which experienced supervisors mentor new supervisors by—

''(i) transferring knowledge in areas such as communication, critical thinking, responsibility, flexibility, motivating employees, and teamwork; and

''(ii) pointing out strengths and areas for development.

''(c)(1) Not later than 1 year after the date on which an individual is appointed to the position of supervisor, that individual shall be required to have completed each program established under subsection (b)(2).

''(2) After completion of a program under subsection (b)(2) (A) and (B), each supervisor shall be required to complete a program under subsection (b)(2) (A) and (B) at least once during each 3-year period.

''(3) Each program established under subsection (b)(2) shall include provisions under which credit shall be given for periods of similar training previously completed.

''(d) Notwithstanding section 4118(c), the Office of Personnel Management shall prescribe regulations to carry out this section, including the monitoring of agency compliance with this section.''.

(b) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations in accordance with subsection (d) of section 4121 of title 5, United States Code, as added by subsection (a) of this section.

(c) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act and apply to—

(A) each individual appointed to the position of a supervisor, as defined under section 4121(a) of title 5, United States Code, (as added by subsection (a) of this section) on or after that effective date; and

(B) each individual who is employed in the position of a supervisor on that effective date as provided under paragraph (2).

(2) SUPERVISORS ON EFFECTIVE DATE.—Each individual who is employed in the position of a supervisor on the effective date of this section shall be required to—

(A) complete each program established under section 4121(b)(2) of title 5, United States Code (as added by subsection (a) of this section), not later than 3 years after the effective date of this section; and

(B) complete programs every 3 years thereafter in accordance with section 4121(c) (2) and (3) of such title.

SEC. 3. MANAGEMENT COMPETENCY STANDARDS.

(a) IN GENERAL.—Chapter 43 of title 5, United States Code, is amended—

(1) by redesignating section 4305 as section 4306; and

(2) inserting after section 4304 the following:

''§ 4305. Management competency standards

''(a) In this section, the term 'supervisor' means—

''(1) a supervisor as defined under section 7103(a)(10);

''(2) a management official as defined under section 7103(a)(11); and

''(3) any other employee as the Office of Personnel Management may by regulation prescribe.

''(b) The Office of Personnel Management shall issue guidance to agencies on standards supervisors are expected to meet in order to effectively manage, and be accountable for managing, the performance of employees.

''(c) Each agency shall—

''(1) develop standards to assess the performance of each supervisor and in developing such standards shall consider the guidance developed by the Office of Personnel Management under subsection (b) and any other qualifications or factors determined by the agency;

''(2) assess the overall capacity of the supervisors in the agency to meet the guidance developed by the Office of Personnel Management issued under subsection (b); and

''(3) develop and implement a supervisor training program to strengthen issues identified during such assessment.

''(d) Every year, or on any basis requested by the Director of the Office of Personnel Management, each agency shall submit a report to the Office on the progress of the agency in implementing this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 43 of title 5, United States Code, is amended by striking the item relating to section 4305 and inserting the following:

''4305. Management competency standards.
''4306. Regulations.''.

(2) REFERENCE.—Section 4304(b)(3) of title 5, United States Code, is amended by striking ''section 4305'' and inserting ''section 4306''.

By Mr. HATCH:

S. 3585. A bill to amend the Internal Revenue Code of 1986 to improve and expand the availability of health savings accounts, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Health Savings Accounts Improvement and Expansion Act of 2006. This bill will make it easier for businesses to provide the option of an HSA to their employees and for Americans to elect these plans.

In short, this bill will make it more likely that Americans will have an HSA plan available when they are making their health care choices. This would be a good development for the individual consumer and the for nation's health care system as a whole.

There is one thing on which we can all agree: our current health care system is broken. Health care expenses are far outpacing inflation. These escalating costs are pricing more and more Americans and small businesses out of the health insurance market. Unless we act, our health care costs are on pace to bankrupt the Federal Treasury.

We need to do something.

The American people want us to do something.

Some favor an option that would give the Federal Government more control of the health care system. In my opinion, that doesn't really fix the problem, it only makes the problem worse—leading to higher costs, higher taxes, and decreased quality and availability.

I believe the answer lies in bringing down costs by helping Americans to take control of their health care.

Recognizing that a federally controlled universal system is a nonstarter, the House of Representatives has aggressively pursued the expansion and development of Health Savings Accounts. In particular, Congressmen ERIC CANTOR and BILL SHUSTER have taken laudable steps toward making these plans more readily available for American workers.

Congressman BILL THOMAS, chairman of the Ways and Means Committee, is demonstrating his and the House's commitment to these plans by holding a hearing tomorrow to discuss the development of health savings accounts.

I am also proud to see that several of our Senate colleagues have introduced legislation that would expand consumer driven health care. Senators SANTORUM, ALLEN, DEMINT, ENSIGN, and COBURN have introduced legislation to fuel the growth of health savings accounts.

My bill complements these plans by encouraging employers to offer HSA accounts and by making it easier for workers to use them.

Since Congress established HSAs in 2004, American workers have turned to them as an affordable health care alternative. Already, more than three million people have enrolled in HSAs. Without any changes to the law, it is estimated that by 2008 there will be six million HSA owners with almost $5 billion in assets.

HSAs are popular. And they are popular because they work.

HSAs are a different type of health insurance. They are more like car insurance than traditional health insurance: You pay for the dents and dings yourself, and your insurance only kicks in for major events. This makes sense. Think of how expensive your car insurance would be if every scratch on every bumper had to be paid for by insurance companies with no owner contribution.

Yet critics allege that promoting this type of insurance unfairly burdens older Americans and the chronically ill—those with the most health care needs. I would note that the premise of this argument is off the mark. For many Americans and businesses, the cost of health insurance premiums are rising so astronomically that the choice is not between traditional first-dollar coverage or an HSA plan, but between an HSA plan and no insurance at all.

As the Galen Institute—a research institute that has done excellent work reviewing the development of consumer-driven health care—has shown, HSAs are not only for the young and the healthy, but also for all health consumers along the age and income spectrum. In a survey by eHealthInsurance—an on-line health insurance broker representing more than 140 major health insurance companies—40 percent of HSA-eligible plan

purchasers made less than $50,000. Forty-five percent of purchasers are over age 40 and 19 percent are 50 or older.

Some argue that the healthy will migrate from traditional plans, leaving only the chronically ill in full coverage plans and driving up costs by shrinking the insurance pool. This argument ignores a critical fact. Younger workers aged 25–34 are currently the largest segment of the uninsured, in large part because insurance coverage is so expensive. They represent 23 percent of the total uninsured population. By bringing them into HSA plans, they will only bring premium costs down further for the chronically ill who establish an HSA.

According to America's health insurance plans, AHIP, 37 percent of those purchasing plans were previously uninsured. Twenty-seven percent of policies sold in the small group market were sold to employers who did not previously offer coverage. According to Assurant Health, the leading health insurer for individuals and small groups, 40 percent of those purchasing HSAs were previously uninsured.

Finally, it seems that American workers, and the chronically ill, are responding to the incentives provided by these consumer-driven plans. McKinsey & Company conducted an extensive survey of these plans. They held focus groups, performed one-on-one interviews, and produced an in-depth study of more than 2,500 Americans regarding their health insurance arrangements. They concluded that these plans have a lot of potential. In fact, some of their conclusions were remarkable. Fifty percent were more likely to ask about costs and three times more likely to choose a less extensive and expensive treatment option. HSA owners are also more likely to visit an urgent care center for treatment rather than a hospital emergency room.

In addition, HSA consumers were more likely to be attentive to their health. Twenty-five percent were more likely to engage in healthy behavior and 30 percent were more likely to get an annual physical. These educated consumers understand that prevention will save them money in the long run. They were more likely to identify treatment options and they were 20 percent more likely to comply with treatment for chronic conditions.

It is no surprise that people are enjoying their HSA plans. According to a survey by eHealthInsurance, premiums for HSA-eligible insurance actually dropped between the introduction of these plans in 2004 and the first half of 2005. Nearly two-thirds of HSA purchasers paid $100 a month or less for their plans. And these plans are comprehensive. Most cover 100 percent of the costs of hospitalization, lab tests, emergency room visits, prescription drugs and doctors' visits after the deductible is met.

The continued expansion of HSAs will have a twofold effect. For those with insurance, the high deductible encourages more responsible, and less wasteful, health care decisions. For those without insurance, the wider availability and lower premiums makes it more affordable for individuals to purchase these plans in the nongroup market and for companies to provide insurance for their employees. The bottom line is that the expansion of these plans will create downward pressure on escalating health care costs.

My proposal aims to make HSAs more attractive to employees, more attractive to employers, and more attractive to older workers. And the bill provides innovative ways for younger workers to contribute seed money to fund an account for their family.

For employees, the primary benefits are increased contribution limits, and the ability to pay their health insurance premiums from the HSA—with pre-tax dollars. Presently, the portion of premiums paid out-of-pocket is paid with after-tax dollars. This feature will make HSAs affordable for more low and moderate income individuals.

For employers, the bill provides incentives to move into low-cost premium arrangements. The health care costs of self-employed individuals and small employers who purchase plans in the non-group market should go down for those who avail themselves of these improved HSAs.

For older Americans, this bill will permit contributions to an HSA as long as they continue to work. Today, more and more Americans are working past the age of 65. This is a trend we should encourage, because the labor force of the future will need more of these experienced workers. Senior citizens contribute a great deal to the workplace and our economy. I know that they are in Utah. Yet I hear from many of our older workers that because they are eligible for Medicare, they are ineligible for HSAs. Expanding contributions to a population that generally has more medical expenses makes sense.

The cornerstone of my bill is a provision that allows HSAs to be funded with tax-free transfers of balances from other health or retirement plans. Participation in certain employer-sponsored health plans makes it impossible for employees to contribute to an HSA. For example, health reimbursement arrangements—HRAs—are plans that allow employers to reimburse substantiated employee medical expenses up to a maximum amount. Under current law, participation in an HRA disqualifies an individual from contributing to an HSA and remaining balances are subject to forfeiture.

I believe that employers that have adopted HRAs would be more likely to offer HSAs if they are allowed a one-time opportunity to transfer individual HRA balances into HSAs. Allowing a one-time conversion opportunity would be very valuable for employees because the balances currently in HRAs would become employee-owned. Not only will this encourage responsible spending on health care, but it will also help to make health insurance more portable, a goal that discourages job lock and creates more freedom and opportunity for American workers.

The bill provides for a tax-free transfer of IRA funds, originally allocated for retirement, to an HSA, with the money reallocated for health care expenses. This will be particularly helpful for those in need of initial seed money to open an HSA and for those who anticipate high medical expenses for which they are currently unable to tap IRA funds without penalty.

My proposal will make it easier for veterans to participate in an HSA. According to Treasury Department guidance, a veteran may not contribute to an HSA if he or she has actually received medical benefits from the VA at any time during the previous 3 months. This bill would allow a veteran who receives VA medical benefits for a service-connected disability to be eligible for an HSA.

I am pleased to tell my colleagues that the changes proposed by the Health Savings Accounts Improvement and Expansion Act of 2006 have been endorsed by a broad cross-section of major health care organizations. I am proud that the National Association of Health Underwriters, the American Benefits Council, the Council of Insurance Agents and Brokers, Assurant Health, the Chamber of Commerce, the National Business Group on Health, the Business Roundtable, and the Financial Services Roundtable have all endorsed my attempt to expand the availability of Health Savings Accounts. These groups know how important HSAs are in giving employees and employers the flexibility to meet their health care needs.

Mr. President, I expect the popularity of HSAs will one day elevate the acronym to the level of IRAs, where no further clarification is required. Today, I ask my colleagues to join me in a bipartisan effort to accelerate that process by enacting this important legislation.

I ask unanimous consent that a section-by-section description of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows.

S. 3585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''HSA Improvement and Expansion Act of 2006''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) authorizes health savings accounts (referred to in this section as ''HSAs'') into which individuals may make annual contributions of not more than $2,700, and families may make annual contributions of not more than $5,450, to permit spending by individuals for their health care needs.

(2) Federal law provides for obtaining health insurance coverage through a low premium health plan offered with a tax-favored HSA that typically costs substantially less than traditional health insurance.

(3) Giving individuals more direct control over their health care spending will encourage more prudent use of health care services, help make the health care system more responsive to the needs of consumers, and improve access to health coverage for the uninsured.

(4) A broad range of improvements to the Federal laws governing HSAs are necessary to make them more attractive to consumers and employers.

(5) The number of people covered in January 2006 by products combining an HSA with a low premium health plan was 3,168,000, more than triple the 1,031,000 reported in March 2005.

(6) HSAs have become an important option for consumers and employers who have struggled to afford health insurance coverage.

(7) According to a January 2006 census, 31 percent of new enrollees in HSAs and low premium health plans in the individual market were previously uninsured.

(8) HSAs combined with low premium health plans can provide an affordable and accessible health insurance option for individuals of all ages.

(9) 50 percent of all people covered by HSAs and low premium health plans in the individual market, including dependents covered under family plans, are 40 years of age or older.

(10) Many States currently have in effect laws and regulations that require insurers to provide specific benefit coverage in the health insurance plans they offer, preventing individuals and small business from enrolling in low premium health plans and making them ineligible for HSAs.

SEC. 3. ACCELERATED FUNDING FOR HSAS THROUGH DISTRIBUTIONS FROM BALANCES IN HEALTH REIMBURSEMENT AND FLEXIBLE SPENDING ARRANGEMENTS AND FROM INDIVIDUAL RETIREMENT PLANS.

(a) ONE-TIME FSA AND HRA ROLLOVERS TO HSAS.—

(1) IN GENERAL.—A plan shall not fail to be treated as a flexible spending arrangement or health reimbursement arrangement under section 105 or 106 of the Internal Revenue Code of 1986 merely because—

(A) such plan provides for a contribution to the health savings account (as defined in section 223 of such Code) of the employee which meets the requirements of paragraph (2), and

(B) such plan thereafter terminates with respect to such employee.

(2) REQUIREMENTS.—A contribution meets the requirements of this paragraph if—

(A) in the case of a flexible spending arrangement (as defined in section 106(c)(2) of such Code) in existence on June 1, 2006, such contribution is the remaining balance in such arrangement as of the last day of the plan year ending in or before the taxable year in which such contribution is made,

(B) in the case of a health reimbursement arrangement in existence on June 1, 2006, such contribution is the remaining balance of the amount to be received in reimbursements under such arrangement as of the last day of the plan year ending in or before the taxable year in which such contribution is made, and

(C) such contribution is made by the employer directly to the health savings account of the employee not later than 60 days after the end of the plan year of such flexible spending arrangement or health reimbursement arrangement.

(3) TREATMENT AS ROLLOVER CONTRIBUTION.—For purposes of sections 223 and 4973 of such Code, a contribution which meets the requirements of paragraph (2) shall be treated as a rollover contribution described in section 223(f)(5) of such Code.

(4) TAX TREATMENT RELATING TO CONTRIBUTIONS.—For purposes of this title—

(A) INCOME TAX.—Gross income shall not include the amount of any contribution under this subsection.

(B) EMPLOYMENT TAXES.—Amounts contributed to a health savings account under this subsection shall be treated as a payment described in section 106(d) of such Code.

(C) COMPARABILITY EXCISE TAX.—Section 4980G of such Code shall not apply to contributions made under this subsection.

(5) TERMINATION.—This paragraph shall not apply to any taxable year beginning after December 31, 2011.

(b) ONE-TIME DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLANS TO FUND HSAS.—

(1) IN GENERAL.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

''(l) HEALTH SAVINGS ACCOUNT FUNDING DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLANS.—

''(1) IN GENERAL.—In the case of an employee who is an eligible individual and who elects the application of this subsection for a taxable year, gross income of the employee for the taxable year does not include a qualified HSA funding distribution to the extent such distribution is otherwise includible in gross income (determined after the application of paragraph (4)).

''(2) QUALIFIED HSA FUNDING DISTRIBUTION.—For purposes of this subsection, the term 'qualified HSA funding distribution' means a distribution from an individual retirement plan of the employee to the extent that such distribution is contributed to the health savings account of the employee not later than the 60th day after the day on which the employee receives such distribution or in a direct trustee-to-trustee transfer.

''(3) LIMITATIONS.—

''(A) MAXIMUM DOLLAR LIMITATIONS BASED ON OUT-OF POCKET LIMITS IN EFFECT AT TIME OF CONTRIBUTION.—The amount excluded from gross income by paragraph (1) shall not exceed—

''(i) in the case of an individual who has self-only coverage under a high deductible health plan as of the first day of the month in which the qualified HSA funding distribution is contributed to the health savings account of the employee, the amount in effect for the taxable year under subclause (I) of section 223(c)(2)(A)(ii), and

''(ii) in the case of an individual who has family coverage under a high deductible health plan as of the first day of the month in which the qualified HSA funding distribution is contributed to the health savings account of the employee, the amount in effect for the taxable year under subclause (II) of section 223(c)(2)(A)(ii).

''(B) ONE-TIME TRANSFER.—

''(i) IN GENERAL.—Except as provided in clause (ii), an individual may make an election under paragraph (1) only for one qualified HSA funding distribution during the lifetime of the individual. Such an election, once made, shall be irrevocable.

''(ii) CONVERSION FROM SELF-ONLY TO FAMILY COVERAGE.—If a qualified HSA funding distribution is made during a month during which an individual has self-only coverage under a high deductible health plan as of the first day of the month, the individual may elect to make an additional qualified HSA funding distribution during a subsequent month during which the individual has family coverage under a high deductible health plan as of the first day of the subsequent month, except that the limitation otherwise applicable under subparagraph (A)(ii) to the distribution during such subsequent month shall be reduced by the amount of the earlier qualified HSA funding distribution.

''(4) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as includible in gross income for purposes of paragraph (1), the aggregate amount distributed from an eligible retirement plan in a taxable year shall be treated as includible in gross income to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means an individual retirement plan (as defined in section 7701(a)(37)), including an individual retirement plan which is designated as a Roth IRA.

''(B) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given such term by section 223(c)(1).

''(6) RELATED PLANS TREATED AS 1.—For purposes of this subsection, all eligible retirement plans of an employer shall be treated as a single plan.''.

(2) COORDINATION WITH LIMITATION ON CONTRIBUTIONS TO HSAS.—Section 223(b)(4) (relating to coordination with other contributions) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) the aggregate amount contributed to health savings accounts of such individual for such taxable year under section 402(l) (and such amount shall not be allowed as a deduction under subsection (a)).''.

(3) 10-PERCENT PENALTY ON EARLY DISTRIBUTIONS NOT TO APPLY.—Section 72(t)(2)(A) of such Code (relating to subsection not to apply to certain distributions) is amended by striking ''or'' at the end of clause (vi), by striking the period at the end of clause (vii) and inserting '', or'', and by inserting after clause (vii) the following new clause:

''(viii) a qualified HSA funding distribution (as defined by section 402(l)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 4. PROVISIONS RELATING TO ELIGIBILITY TO CONTRIBUTE TO HSAS.

(a) INDIVIDUALS ELIGIBLE FOR REIMBURSEMENT UNDER SPOUSE'S FLEXIBLE SPENDING ARRANGEMENT.—Section 223(c)(1) (defining eligible individual) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN FLEXIBLE SPENDING ARRANGEMENTS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual is covered under a flexible

spending arrangement (within the meaning of section 106(c)(2)) which is maintained by an employer of the spouse of the individual, but only if—

''(i) the employer is not also the employer of the individual, and

''(ii) the individual certifies to the employer and to the Secretary (in such form and manner as the Secretary may prescribe) that the individual and the individual's spouse will not accept reimbursement under the arrangement for any expenses for medical care provided to the individual.''.

(b) INDIVIDUALS OVER AGE 65 AUTOMATICALLY ENROLLED IN MEDICARE PART A.—Section 223(b)(7) (relating to contribution limitation on medicare eligible individuals) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any individual during any period the individual's only entitlement to such benefits is an entitlement to hospital insurance benefits under part A of title XVIII of such Act pursuant to an automatic enrollment for such hospital insurance benefits under the regulations under section 226(a)(1) of such Act.''

(c) INDIVIDUALS ELIGIBLE FOR CERTAIN VETERANS BENEFITS.—Section 223(c)(1) (defining eligible individual), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR CERTAIN VETERANS BENEFITS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual receives periodic hospital care or medical services for a service-connected disability under any law administered by the Secretary of Veterans Affairs but only if the individual is not eligible to receive such care or services for any condition other than a service-connected disability.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 5. PROVISIONS RELATING TO CONTRIBUTION AND LOW PREMIUM HEALTH PLAN LIMITS.

(a) INCREASE IN CONTRIBUTION LIMITS FOR HSAS.—

(1) INCREASE IN MONTHLY LIMIT.—

(A) IN GENERAL.—Paragraph (2) of section 223(b) (relating to monthly limitation) is amended to read as follows:

''(2) MONTHLY LIMITATION.—In the case of an eligible individual who has coverage under a high deductible health plan, the monthly limitation for any month of such coverage is 1/12 of—

''(A) in the case of an eligible individual who has self-only coverage under a high deductible health plan as of the first day of such month, $2,700, and

''(B) in the case of an eligible individual who has family coverage under a high deductible health plan as of the first day of such month, $5,450.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 223(d)(1)(A)(ii)(I) is amended by striking ''subsection (b)(2)(B)(ii)'' and inserting ''subsection (b)(2)(B)''.

(ii) Section 223(c)(2)(D) is amended to read as follows:

''(D) SPECIAL RULE FOR NETWORK PLANS.—In the case of a plan using a network of providers, such plan shall not fail to be treated as a high deductible health plan by reason of having an out-of-pocket limitation for services provided outside of such network which exceeds the applicable limitation under subparagraph (A)(ii).''.

(2) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER THE BEGINNING OF THE YEAR.—Section 223(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(8) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER THE BEGINNING OF THE YEAR.—An individual who first becomes an eligible individual during a calendar year in a month after January of the calendar year shall, for purposes of computing the limitation under paragraph (1) for any taxable year, be treated as having been an eligible individual during each of the months in such calendar year preceding such first month (and as having been enrolled in each of those months in the same high deductible health plan the individual was enrolled in for such first month).''.

(3) APPLICATION OF SPECIAL RULES FOR MARRIED INDIVIDUALS.—Paragraph (5) of section 223(b) (relating to special rule for married individuals) is amended to read as follows:

''(5) SPECIAL RULES FOR MARRIED INDIVIDUALS.—

''(A) IN GENERAL.—In the case of individuals who are married to each other and who are both eligible individuals, the limitation under paragraph (1) for each spouse shall be equal to the spouse's applicable share of the excess (if any) of—

''(i) the dollar amount in effect under paragraph (2)(B) (without regard to any additional contribution amounts under paragraph (3)), over

''(ii) the aggregate amount paid to Archer MSAs of such spouses for the taxable year.

''(B) APPLICABLE SHARE.—For purposes of subparagraph (A), a spouse's applicable share is one-half of the limitation under subparagraph (A) unless both spouses agree on a different division.''

(4) SELF-ONLY COVERAGE.—Section 223(c)(4) (defining family coverage) is amended to read as follows:

''(4) COVERAGE.—

''(A) FAMILY COVERAGE.—The term 'family coverage' means any coverage other than self-only coverage.

''(B) SELF-ONLY COVERAGE.—If more than 1 individual is covered by a high deductible health plan but only 1 of the individuals is an eligible individual, the coverage shall be treated as self-only coverage.''.

(b) FAMILY PLAN MAY HAVE INDIVIDUAL ANNUAL DEDUCTIBLE LIMIT.—Section 223(c)(2) (defining high deductible health plan) is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR FAMILY COVERAGE.—A health plan providing family coverage shall not fail to meet the requirements of subparagraph (A)(i)(II) merely because the plan elects to provide both—

''(i) an aggregate annual deductible limit for all individuals covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(II), and

''(ii) an annual deductible limit for each individual covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(I).''.

(c) COST-OF-LIVING ADJUSTMENTS COMPUTED EARLIER IN THE CALENDAR YEAR.—Paragraph (1) of section 223(g) (relating to cost-of-living adjustment) is amended by adding at the end the following new flush sentence:

''In the case of any taxable year beginning after 2006, section 1(f)(4) shall be applied for purposes of this paragraph by substituting 'March 31' for 'August 31' and the Secretary shall publish the adjusted amounts under subsections (b)(2) and (c)(2)(A) for taxable years beginning in any calendar year no later than June 1 of the preceding calendar year.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 6. DEFINITION OF QUALIFIED MEDICAL EXPENSES.

(a) PREMIUMS FOR LOW PREMIUM HEALTH PLANS TREATED AS QUALIFIED MEDICAL EXPENSES.—Subparagraph (C) of section 223(d)(2) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, but only if the expenses are for coverage for a month with respect to which the account beneficiary is an eligible individual by reason of the coverage under the plan.''.

(b) SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.—Paragraph (2) of section 223(d) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

''(i) during either—

''(I) the taxable year in which the health savings account was established, or

''(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such taxable year (not including extensions thereof), and

''(ii) for medical care of an individual during a period that such individual was an eligible individual.

For purposes of clause (ii), an individual shall be treated as an eligible individual for any portion of a month the individual is described in subsection (c)(1), determined without regard to whether the individual is covered under a high deductible health plan on the 1st day of such month.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

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

THE HEALTH SAVINGS ACCOUNTS IMPROVEMENT AND EXPANSION ACT OF 2006

SECTION-BY-SECTION

I. Distributions to HSAs from existing health and retirement accounts

HRA/FSA Rollover—Section 3(a): Health Reimbursement Arrangements (HRAs) are employer-sponsored plans which allow employers to reimburse substantiated employee medical expenses up to a maximum amount. Flexible Spending Arrangements (FSAs) are employer-sponsored plans that are usually funded through voluntary salary reduction agreements with an employee. Participation in these plans disqualifies individuals from contributing to Health Savings Accounts (HSAs) except in limited situations. The disqualification from HSA contributions applies regardless of whether the coverage is provided by the employer of the individual or spouse of the individual.

Employers with existing FSAs or HSAs might be more likely to offer health savings accounts if they were allowed a one-time opportunity to transfer individual balances into HSAs. FSA balances are subject to forfeiture when an individual leaves employment and HRA balances generally revert to the employer. Allowing a one-time conversion opportunity would be very valuable for employees because the balances currently in their employer-sponsored accounts would become employee-owned funds to which they could also contribute in the future and could keep as they change employment.

Seeding an HSA Through an IRA Rollover—Section 3(b): HSAs work in combination with High Deductible Health Plans (HDHPs). Because the maximum deductible with an HDHP can be as high as $5,250 for a family plan, with maximum out-of-pocket expenses as high as $10,500, these plans can be intimidating for young families or the chronically ill who anticipate substantial medical expenses. To alleviate these concerns and to allow an individual to ''seed'' an HSA with a substantial amount of money, the Act would authorize a one-time distribution from an IRA to an HSA, up to the amount of the statutory out-of-pocket maximum. To accommodate a person who elects this distribution while covered by an individual plan, but who later has family coverage, the measure would allow a one-time catch-up contribution of the difference between the original contribution and the statutory limit on out-of-pocket expenses for a family plan. These distributions would not be subject to the ordinary 10% penalty for early IRA distributions.

II. Eligibility to contribute to HSAs

Employee Who Has a Spouse with an FSA—Section 4(a): Under current law, an individual may not contribute to an HSA if his spouse has an FSA, even if the individual never seeks to be reimbursed for any medical expenses from the spouse's FSA. The proposal would allow contributions to an HSA provided that the individual certifies that he will not receive reimbursement for any health expenses from his spouse's FSA.

Older Employees—Section 4(b): Active employees over age 65 are permitted to contribute to an HSA so long as the individual is not enrolled in Medicare. However, individuals are automatically enrolled in Medicare Part A (which covers hospital expenses) upon reaching age 65 even though their plan through their employer will typically continue to cover their medical expenses until they retire. The Act would allow older workers who participate in HSAs to be allowed to continue to contribute to their accounts until they retire despite the fact they were automatically enrolled in Medicare Part A at age 65.

Veterans—Section 4(c): Under current law, a combat wounded veteran who is eligible for medical benefits through the Department of Veterans Affairs (VA) is also HSA eligible. According to Treasury Department guidance, however, the veteran may not contribute to an HSA, if he or she has actually received medical benefits from the VA at any time during the previous three months. The Act would also allow a veteran who actually receives VA medical benefits for a service-connected disability to be eligible for an HSA.

III. Increasing value in HSAs

Increasing Contribution Limits—Section 5(a): Under current law HSA contributions are limited to the lesser of the actual deductible or the statutory contribution limit ($2,700 individual/$5,450 family for 2006). The President has proposed raising the contribution limit to the statutory out-of-pocket maximum for HSAs ($5,250 individual/$10,500 family). The proposal would permit mid-year enrollment and allow individuals and families to contribute up to the contribution limit, regardless of the actual deductible of the plan.

Permitting Individual Family Members to Satisfy Individual Rather than Family Deductible—Section 5(b): Most employer-sponsored health plans begin providing coverage as soon as a family member meets the individual deductible for the plan rather than the full family deductible. Current HSA guidance only allows this practice if the individual deductible is at least the minimum deductible for family coverage ($2,000). Allowing coverage to begin after a family member satisfies the individual deductible amount would help to encourage more employees to elect HSAs for themselves and their families.

Earlier Indexing of Cost of Living Adjustments—Section 5(c): The HSA statute directs Treasury to index deductible amounts, out-of-pocket expense limits, and limits on contributions to HSAs. Treasury is required to use third quarter economic data when making these annual updates, which means the new figures are typically issued in December, too late for many employers who need to make these updates much sooner in the year. Directing Treasury to complete the indexing of these amounts by June 1, using first quarter economic data, will give employers the information they need in enough time to modify their plan offerings that take effect the following January.

IV. Expanding the definition of qualified medical expenses

Premiums—Section 6(a): A large part of a family's annual medical expenses is the cost of premiums for health insurance. Under current law, high deductible health plan premiums cannot be paid from an HSA. As a result, individuals must pay their premiums with after-tax dollars. Employees must use after-tax dollars to pay their share of premiums for employer-sponsored coverage, unless their employer provides a premium conversion plan under Section 125 of the Internal Revenue Code. The proposal would allow high deductible health plan premiums to be paid with pre-tax dollars from an HSA. This provision will primarily help self-employed individuals and others who purchase plans in the non-group market. Further, it would provide an incentive for employers not currently offering health insurance to make available a low-cost high-deductible plan.

Medical Expenses Incurred Before Establishment of Account—Section 6(b): Under current law, only qualified expenses that are incurred after an HSA is established can be distributed tax-free from the account. The Act would allow certain medical expenses incurred before establishment of the HSA to qualify as well. Generally, expenses incurred during the taxable year in which the HSA was established or during the preceding taxable year could be paid from the account without penalty.

By Mr. HATCH:

S. 3586. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on contributions to funeral trusts; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill that will eliminate the current limit on the amount individuals can place into a trust to provide for funeral expenses. Given the rising costs of funeral expenses, this change would have a positive impact on the lives of older Americans and on their families. In addition, according to the Joint Committee on Taxation, it would have a slight, but positive, impact on the Federal Treasury.

Current law limits a funeral trust to $8,500, but this is generally no longer sufficient to cover a family's funeral expenses. In Utah, the average cost of a full funeral and burial is $12,685. I am sure that in many other States it is even higher. Because of this contribution limit, even those who preplan their own funerals too often leave their heirs with substantial expenses. Even those who attempt to cover the entire expense may not have enough to cover all costs after administrative fees and taxes are deducted.

This proposal would make qualified funeral trusts more effective. The principal reason individuals set up qualified funeral trust plans is to lift a financial burden from their children.

I recall the case of one constituent who wrote to me about this 3 years ago. He was suffering from Parkinson's disease began preplanning his own funeral so these decisions and this burden would be lifted from his children. Because of the ''QFT Cap'' which at the time was $7,800, this Utahn was not able to preplan completely the funeral services he desired. It became necessary to have one of his sons complete this preplanning for him by opening up his own trust that would help to cover all expenses. It seems silly to make families go to these extra steps when they are attempting to make responsible decisions, well in advance of need, for themselves and their families.

For older Americans, the primary benefits of this legislation are the ability to have all the money they have saved in the trust to be applied to final expenses, instead of taxes, and the incentive to increase the amount of their contribution. Sixty percent of prefunded funerals were funded by trusts and elimination of the cap should raise this percentage. For funeral directors, this change would eliminate the burden and expense of issuing information documents to report income earned from the trust.

I think we can all agree that we should make it easier for those who are willing to provide for these necessary expenses in advance. Today, I ask my colleagues to join me in an effort to enact this important measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF DOLLAR LIMITATION ON CONTRIBUTIONS TO FUNERAL TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 685 of the Internal Revenue Code of 1986 (relating to treatment of funeral trusts) is repealed.

(b) CONFORMING AMENDMENT.—Subsections (d), (e), and (f) of such section are redesignated as subsections (c), (d), and (e), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 521—COMMENDING THE PEOPLE OF ALBANIA ON THE 61ST ANNIVERSARY OF THE LIBERATION OF THE JEWS FROM THE NAZI DEATH CAMPS, FOR PROTECTING AND SAVING THE LIVES OF ALL JEWS WHO LIVED IN ALBANIA, OR SOUGHT ASYLUM THERE DURING THE HOLOCAUST

Mr. SCHUMER (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 521

Whereas at the start of World War II, approximately 200 Jews lived in the Republic of Albania, and approximately 1800 Jews escaped to Albania from Western Europe and the former Yugoslavia;

Whereas in 1934, United States Ambassador to Albania Herman Bernstein wrote that, ''There is no trace of any discrimination against Jews in Albania, because Albania happens to be one of the rare lands in Europe today where religious prejudice and hate do not exist, even though Albanians themselves are divided into three faiths.'';

Whereas based on their unique history of religious tolerance, Albanians sheltered and protected Jews, even at the risk of Albanian lives, beginning with the invasion and occupation of Albania by Mussolini's Italian fascists in 1939;

Whereas after Germany occupied Albania in 1943 and the Gestapo ordered Jewish refugees in the Albanian capital of Tirana to register, Albanian leaders refused to provide a list of Jews living in Albania, and Albanian clerks issued false identity papers to protect all Jews who traveled to and hid in Tirana;

Whereas Albanians considered it a matter of national pride and tradition to help Jews during the Holocaust, and due to the actions of many individual Albanians, virtually the entire native and refugee Jewish community in Albania during World War II survived the Holocaust;

Whereas Albania had more Jewish residents after World War II than before World War II;

Whereas in June 1990, Jewish-American Congressman Tom Lantos and former Albanian-American Congressman Joe DioGuardi were the first United States officials to enter Albania in 50 years and received from the Communist Party leader and Albanian President Ramiz Alia a thick file from the Communist archives containing the records of the unpublicized heroic deeds of hundreds of Albanians who rescued Jews during World War II;

Whereas Joe DioGuardi, upon returning to the United States, sent the file for authentication to Yad Vashem, the Holocaust Martyrs' and Heroes' Remembrance Museum in Jerusalem, Israel;

Whereas Yad Vashem has thus far designated 63 Albanians as ''Righteous Persons'' and Albania as one of the ''Righteous Among the Nations'';

Whereas in February 1995, Congressmen Tom Lantos, Benjamin Gilman, and Jerrold Nadler and former Congressman Joe DioGuardi spoke at a ceremony at the United States Holocaust Memorial Museum in Washington, DC, commemorating the addition of Albania to the museum's ''Righteous Among the Nations'' installation;

Whereas based on the information authenticated by Yad Vashem, Jewish-American author and philanthropist Harvey Sarner published ''Rescue in Albania'' in 1997, to call international attention to the unique role of the Albanian people in saving Jews from the Nazi Holocaust;

Whereas in October 1997, the Albanian American Civic League and Foundation began the distribution of 10,000 copies of ''Rescue in Albania'' with forewords by Congressmen Lantos and Gilman to bring to the attention of the Jewish people and their leaders in particular the plight of Albanians living under Slobodan Milosevic in order to forestall another genocide;

Whereas on May 15, 2005, Jews and Albanians gathered in New York City in a ''Salute to Albanian Tolerance, Resistance, and Hope: Remembering Besa and the Holocaust'' on the occasion for the 60th anniversary of the liberation of the Nazi death camps; and

Whereas in a statement presented at the ceremony Dr. Mordechai Paldiel, Director of the Department for the Righteous at Yad Vashem, commemorated the heroism of Albanians as ''the only ones among rescuers in other countries who not only went out of their way to save Jews, but vied and competed with each other for the privilege of being a rescuer, thanks to besa'', the code of honor that requires Albanians to save the life of anyone seeking refuge, even if it means sacrificing his own life: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people of Albania for protecting and saving the lives of all Jews, both native and refugee, living in Albania during the Holocaust;

(2) commends Yad Vashem in Israel and encourages others to recognize Albanians who took action to protect Jews during the Holocaust for their great courage and heroism; and

(3) takes this occasion to reaffirm its support for close ties between the United States and Albania.

SENATE RESOLUTION 522—CELEBRATING THE 150TH ANNIVERSARY OF THE CITIES OF BRISTOL, TENNESSEE AND BRISTOL, VIRGINIA

Mr. FRIST (for himself, Mr. ALEXANDER, Mr. WARNER, and Mr. ALLEN) submitted the following resolution; which was considered and agreed to:

S. RES. 522

Whereas the twin cities of Bristol, Tennessee and Bristol, Virginia were officially chartered in 1856, celebrated the Bristol Centennial in 1956, and have organized to celebrate the Bristol Sesquicentennial in 2006;

Whereas the Bristol Sesquicentennial theme, ''Celebrating 150 Years of heritage and harmony'' underscores the duality of Bristol as a cohesion of 2 separate cities with 1 communal spirit;

Whereas the ''Bristol Sign'', listed in the National Register of Historic Places, serves to exemplify the communal spirit of Bristol, bridge the States of Tennessee and Virginia over the cooperatively named ''State Street'', and declare Bristol ''A Good Place to Live'';

Whereas the people of Bristol continue to work to preserve structures of historical significance, including the Paramount theatre, the Old Customs House, and the historic train station;

Whereas the phonographic recordings known as the Bristol Sessions launched the country music careers of the Carter Family, the Stonemans, and Jimmie Rogers, and prompted historians to describe Bristol as the ''Big Bang'' of modern country music;

Whereas country music is a central part of the history of Bristol, which Congress recognized as the ''Birthplace of Country Music'';

Whereas the history and economic development of Bristol is intimately tied to commercial transportation and Bristol continues to serve as an important commercial hub for the surrounding region; and

Whereas automotive racing is integral to the identity of Bristol and the ''World's Fastest Half-Mile'' at the Bristol Motor Speedway continues to offer exciting events to scores of racing fans: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the cultural and historic achievements of the people of Bristol, Tennessee and Bristol, Virginia; and

(2) congratulates the twin cities of Bristol on their sesquicentennial.

Mr. ALEXANDER. Mr. President, I am pleased to join Senators FRIST, WARNER, and ALLEN in offering a Senate resolution that celebrates the 150th anniversary of the twin cities of Bristol, TN, and Bristol, VA.

Hanging on the wall of my Washington office near my desk is a painting of Bristol by George Smith called ''State Street at Seventh Avenue.'' This painting, which was completed around 1890, depicts the shared road that links the twin cities of Bristol and which serves as the State line between Tennessee and Virginia. State Street Church can be seen on the left side of the painting, the First Presbyterian Church is in the distance on the right, and the city saloon appears at the bottom. Thanks to continuing efforts in Bristol to preserve structures of historical significance, some of these buildings and many like them can still be seen there today.

The twin cities were incorporated in 1856, the same year the Virginia and Tennessee Railroads reached Bristol. A second railroad arrived four years later. From that point on, the population grew steadily as Bristol emerged as an important transportation and commercial hub.

Today, Bristol is known for a different type of transportation. Since 1961, the Bristol Motor Speedway has been host to NASCAR races and its fans. The Speedway, which began as drawings scratched on the back of envelopes and brown paper bags, can now seat over 160,000 fans at its races. The ''World's Fastest Half-Mile'' is acclaimed worldwide, and I have enjoyed visiting the Speedway myself.

But Bristol is more than just a transportation hub. It is the birthplace of country music—as declared by Congress in 1998.

The roots of country music in Bristol can be traced to the influences of Scotch-Irish immigrants in the mountain regions of Tennessee and Virginia—including my own ancestors—coupled with the unique hymns of Negro spirituals and work songs. A number of early Appalachian instruments that helped spawn this new American form of music can be found on the walls of my Washington office.

In 1927, Ralph Sylvester Peer arrived in Bristol hoping to produce a commercial recording of these unique mountain sounds. That's how the recordings

known as the Bristol Sessions were born, launching the careers of country greats like the Carter Family, the Stonemans and Jimmie Rogers. Those sessions are often billed as ''the Big Bang'' that started the development of modern and marketable country music.

Bristol, TN, and Bristol, VA, may be two cities but they share a common spirit. You can't help but feel that spirit each time you visit, as I have had the pleasure of doing many times over the years. Nothing says it better than the Bristol Sign, which is listed in the National Register of Historic Places. Stretching across State Street and linking the States of Virginia and Tennessee, it declares Bristol ''A Good Place to Live.''

Mr. President, I extend my warmest wishes to the people of Bristol as they celebrate the twin cities' sesquicentennial this year.

SENATE RESOLUTION 523—COMMENDING THE OREGON STATE UNIVERSITY BASEBALL TEAM FOR WINNING THE 2006 COLLEGE WORLD SERIES

Mr WYDEN (for himself and Mr. SMITH) submitted the following resolution; which was considered and agreed to:

S. RES. 523

Whereas on June 26, 2006, the Oregon State University baseball team won the College World Series in Omaha, Nebraska by defeating the University of Georgia Bulldogs by a score of 5-3, the University of Miami Hurricanes by a score of 8-1, the Rice University Owls by scores of 5-0 and 2-0, and the University of North Carolina Tarheels in 2 championship series games by scores of 11-7 and 3-2;

Whereas the success of the season depended on the hard work, dedication, and performance of every player on the Oregon State University baseball team, including Erik Ammon, Darwin Barney, Bret Bochsler, Reed Brown, Dallas Buck, Brian Budrow, Mitch Canham, Bryn Card, Brett Casey, Cory Ellis, Derek Engelke, Josh Forgue, Cole Gillespie, Ryan Gipson, Tyler Grahm, Mark Grbavac, Kevin Gunderson, Koa Kahalehoe, Greg Keim, Jon Koller, Chris Kunda, Eddie Kunz, Joey Lakowske, Greg Laybourn, Lonnie Lechelt, Mike Lissman, Anton Maxwell, Jake McCormick, Shea McFeely, Jonah Nickerson, Joe Paterson, Casey Priseman, Sean Rockey, Bill Rowe, Scott Santschi, Alex Sogard, Dale Solomon, Michael Stutes, Rob Summers, Daniel Turpen, Geoff Wagner, and John Wallace;

Whereas numerous members of the Oregon State University baseball team were recognized for their performance in the regular season in the PAC-10 Conference, including Cole Gillespie, who was named PAC-10 Baseball Player of the Year, Chris Kunda, who was named PAC-10 Defensive Player of the Year, Darwin Barney, Dallas Buck, Cole Gillespie, Kevin Gunderson, and Jonah Nickerson who were named to the first team All PAC-10 baseball team, and Mitch Canham, Chris Kunda, and Shea McFeely who were named to the honorable mention All PAC-10 baseball team;

Whereas Head Coach Pat Casey was named PAC-10 Baseball Coach of the Year;

Whereas Jonah Nickerson was recognized as the Most Outstanding Player of the tournament; and

Whereas the College World Series victory of the Oregon State University ended a terrific season in which the team compiled a record of 50-16: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Oregon State University baseball team, Head Coach Pat Casey and his coaching staff, Athletic Director Bob DeCarolis, and President Edward John Ray for an outstanding championship season; and

(2) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to the President of Oregon State University.

SENATE CONCURRENT RESOLUTION 106—EXPRESSING THE SENSE OF CONGRESS REGARDING HIGH LEVEL VISITS TO THE UNITED STATES BY DEMOCRATICALLY ELECTED OFFICIALS OF TAIWAN

Mr. JOHNSON (for himself and Mr. ALLEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 106

Whereas, for over half a century, a close relationship has existed between the United States and Taiwan, which has been of enormous political, economic, cultural, and strategic advantage to both countries;

Whereas Taiwan is one of the strongest democratic allies of the United States in the Asia-Pacific region;

Whereas it is United States policy to support and strengthen democracy around the world;

Whereas during the late 1980s and early 1990s, Taiwan made a remarkable transition to a full-fledged democracy with a vibrant economy and a vigorous multi-party political system that respects human rights and the rule of law;

Whereas President George W. Bush, in a November 2005 speech in Kyoto, Japan, lauded the Government of Taiwan for its democratic achievements;

Whereas, in spite of its praise for democracy in Taiwan, the United States Government continues to adhere to guidelines from the 1970s that bar the President, Vice President, Premier, Foreign Minister, and Defense Minister of Taiwan from coming to Washington, D.C.;

Whereas the United States Government has barred these high-level officials from visiting Washington, D.C., while allowing the unelected leaders of the People's Republic of China to routinely visit Washington, D.C., and welcoming them to the White House;

Whereas these self-imposed restrictions lead to a lack of direct contact and communication with the democratically elected leaders of Taiwan and deprive the President, Congress, and the American public of the opportunity to engage in a direct dialogue regarding developments in the Asia-Pacific region and key elements of the relationship between the United States and Taiwan;

Whereas, in consideration of the major economic, security, and political interests shared by the United States and Taiwan, it is to the benefit of the United States for United States officials to meet with and communicate directly with the democratically elected leaders of Taiwan;

Whereas, since the Taiwan Strait is one of the flashpoints in the world, it is important that United States policymakers directly communicate with the leaders of Taiwan; and

Whereas, Section 221 of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1101 note) provides that the President or other high-level officials of Taiwan may visit the United States, including Washington D.C., at any time to discuss a variety of important issues: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the Sense of Congress that—

(1) restrictions on visits to the United States by high-level elected and appointed officials of Taiwan, including the democratically-elected President of Taiwan, should be lifted;

(2) the United States should allow direct high-level exchanges at the Cabinet level, in order to strengthen a policy dialogue with the Government of Taiwan; and

(3) it is in the interest of the United States to strengthen links between the United States and the democratically-elected Government of Taiwan and demonstrate stronger support for democracy in the Asia-Pacific region.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4543. Mr. DURBIN (for himself, Mrs. CLINTON, Mr. BENNETT, Mr. BINGAMAN, Mr. CARPER, Mrs. BOXER, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 12, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

SA 4544. Mr. DURBIN (for himself, Mrs. CLINTON, Mr. BENNETT, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 12, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4543. Mr. DURBIN (for himself, Mrs. CLINTON, Mr. BENNETT, Mr. BINGAMAN, Mr. CARPER, Mrs. BOXER, Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 12, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; as follows:

On page 2, line 2, strike ''(two'' and all that follows and insert the following:

SECTION 1. FLAG PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Flag Protection Act of 2006''.

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(B) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(C) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(D) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the Constitution.

(2) PURPOSE.—The purpose of this section is to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

(c) PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.—

(1) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

"§ 700. Incitement; damage or destruction of property involving the flag of the United States

''(a) DEFINITION OF FLAG OF THE UNITED STATES.—In this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

''(b) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and under circumstances in which the person knows that it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

''(c) FLAG BURNING.—Any person who shall intentionally threaten or intimidate any person or group of persons by burning, or causing to be burned, a flag of the United States shall be fined not more than $100,000, imprisoned for not more than 1 year, or both.

''(d) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

''(e) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

''(f) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory, or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The chapter analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following:

''700. Incitement; damage or destruction of property involving the flag of the United States.''.

(d) SEVERABILITY.—If any provision of this section, or the application of such a provision to any person or circumstance, is held to be unconstitutional, the remainder of the section, and the application of this section to any other person or circumstance, shall not be affected by such holding.

SEC. 2. RESPECT FOR THE FUNERALS OF FALLEN HEROES.

(a) SHORT TITLE.—This section may be cited as the ''Respect for the Funerals of Fallen Heroes Act of 2006''.

(b) IN GENERAL.—Section 1387 of title 18, United States Code, is amended to read as follows:

"§ 1387. Prohibition on demonstrations at funerals of members or former members of the Armed Forces

''(a) IN GENERAL.—It shall be unlawful for any person to engage in a demonstration during the period beginning 60 minutes before and ending 60 minutes after the funeral of a member or former member of the Armed Forces, any part of which demonstration—

''(1)(A) takes place within the boundaries of the location of such funeral and such location is not a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery; or

''(B) takes place on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery and the demonstration has not been approved by the cemetery superintendent or the director of the property on which the cemetery is located;

''(2)(A) takes place within 150 feet of the point of the intersection between—

''(i) the boundary of the location of such funeral; and

''(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

''(B) includes, as part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral of a member or former member of the Armed Forces; or

''(3) is within 300 feet of the boundary of the location of such funeral and impedes the access to or egress from such location.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

''(c) DEFINITIONS.—In this section:

''(1) The term 'Armed Forces' has the meaning given the term in section 101 of title 10.

''(2) The term 'funeral of a member or former member of the Armed Forces' means any ceremony, procession, or memorial service held in connection with the burial or cremation of a member or former member of the Armed Forces.

''(3) The term 'demonstration' includes—

''(A) any picketing or similar conduct;

''(B) any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony;

''(C) the display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony; and

''(D) the distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony.

''(4) The term 'boundary of the location', with respect to a funeral of a member or former member of the Armed Forces, means—

''(A) in the case of a funeral of a member or former member of the Armed Forces that is held at a cemetery, the property line of the cemetery;

''(B) in the case of a funeral of a member or former member of the Armed Forces that is held at a mortuary, the property line of the mortuary;

''(C) in the case of a funeral of a member or former member of the Armed Forces that is held at a house of worship, the property line of the house of worship; and

''(D) in the case of a funeral of a member or former member of the Armed Forces that is held at any other kind of location, the reasonable property line of that location.''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 67 of such title is amended by striking the item relating to section 1387 and inserting the following new item:

''1387. Prohibition on demonstrations at funerals of members or former members of the Armed Forces.''.

SA 4544. Mr. DURBIN (for himself, Mrs. CLINTON, Mr. BENNETT, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 12, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; which was ordered to lie on the table; as follows:

Amend the title so as to read: ''A Joint Resolution amending title 18, United States Code, to provide for the protection of the flag of the United States and to prohibit certain demonstrations at funerals of members and former members of the Armed Forces, and for other purposes.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMTTEE ON ARMED SERVICES

Mr. CORNYN. I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 27, 2006, at 10:30 a.m., in closed session to receive a briefing on recent North Korean Ballistic Missile Developments.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 27, 2006, at 2:30 p.m. to conduct a hearing on ''Oversight of SAFETEA–LU Implementation: The Current State of Progress and Future Outlook.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be allowed to meet in an executive session today at 10 a.m. Tuesday, June 27, 2006.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday,

June 27, 2006, at 10 a.m. The purpose of this hearing is to receive testimony relating to implementation of the Energy Policy Act provisions on enhancing oil and gas production on Federal lands in the Rocky Mountain Region.

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

COMMITTEE ON FINANCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 27, 2006, at 10 a.m., in 106 Dirksen Senate Office Building, to consider the nomination of Henry M. Paulson, Jr., to be Secretary of the Treasury.

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

COMMITTEE ON FINANCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 27, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to consider the nomination of Mr. Eric Solomon, to be Assistant Secretary of the Treasury for Tax Policy, U.S. Department of the Treasury, vice Pamela Olson, resigned.

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

COMMITTEE ON THE JUDICIARY

Mr. President, I ask unaimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on ''The Use of Presidential Signing Statements'' on Tuesday, June 27, 2006, at 10 a.m. in Dirksen Senate Office Building Room 226. Witness list:

Panel I: Michelle Boardman, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, DC.

Panel II: Charles Ogletree, Professor, Harvard Law School, Cambridge, Massachusetts; Christopher Yoo, Professor, Vanderbilt University Law School, Nashville, Tennessee; Bruce Fein, Partner, Fein & Fein LLC, Washington, DC; Nicholas Quinn Rosenkranz, Professor, Georgetown Law Center, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 27, 2006, at 2:30 p.m. to hold a closed briefing.

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

SPECIAL COMMITTEE ON AGING

Mr. CORNYN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet tomorrow, June 27, 2006, from 10 a.m.–12 p.m. in Dirksen 215 purpose of conducting a hearing.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Tuesday, June 27, 2006, at 10 a.m. for a hearing entitled, The Right People? Oversight of the Office of Personnel Management.

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

PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Michelle Murphy, an intern in my Judiciary Committee office, be granted floor privileges for the duration of the debate on S.J. Res. 12.

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

CELEBRATING THE 150TH ANNIVERSARY OF THE CITIES OF BRISTOL, TENNESSEE, AND BRISTOL, VIRGINIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 522, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 522) celebrating the 150th anniversary of the cities of Bristol, Tennessee and Bristol, Virginia.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 522) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 522

Whereas the twin cities of Bristol, Tennessee and Bristol, Virginia were officially chartered in 1856, celebrated the Bristol Centennial in 1956, and have organized to celebrate the Bristol Sesquicentennial in 2006;

Whereas the Bristol Sesquicentennial theme, ''Celebrating 150 Years of Heritage and Harmony'' underscores the duality of Bristol as a cohesion of 2 separate cities with 1 communal spirit;

Whereas the ''Bristol Sign'', listed in the National Register of Historic Places, serves to exemplify the communal spirit of Bristol, bridge the States of Tennessee and Virginia over the cooperatively named ''State Street'', and declare Bristol ''A Good Place to Live'';

Whereas the people of Bristol continue to work to preserve structures of historical significance, including the Paramount Theatre, the Old Customs House, and the historic train station;

Whereas the phonographic recordings known as the Bristol Sessions launched the country music careeers of the Carter Family, the Stonemans, and Jimmie Rogers, and prompted historians to describe Bristol as the ''Big Bang'' of modern country music;

Whereas country music is a central part of the history of Bristol, which Congress recognized as the ''Birthplace of Country Music'';

Whereas the history and economic development of Bristol is intimately tied to commercial transportation and Bristol countinues to serve as an important commercial hub for the surrounding region; and

Whereas automotive racing is integral to the identity of Bristol and the ''World's Fastest Half-Mile'' at the Bristol Motor Speedway continues to offer exciting events to scores of racing fans: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the cultural and historic achievements of the people of Bristol, Tennessee and Bristol, Virginia; and

(2) congratulates the twin cities of Bristol on their sesquicentennial.

Mr. FRIST. Mr. President, S. Res. 522, which was just adopted, celebrates the 150th anniversary of the cities of Bristol, TN, and Bristol, VA. Throughout the year, the people of Bristol have celebrated this anniversary, and the adoption of this resolution coincides with a number of exciting local events.

Bristol is a unique city because of the nature of its founding just along the Tennessee and Virginia border in what started out as two separate communities founded along an anticipated railroad route. Through years of give and take and sometimes bitter disputes over that Tennessee-Virginia border, Bristol has developed into a shining example of how hard work, cooperation, partnership, and entrepreneurial spirit can lead to tremendous opportunities and to tremendous economic growth for communities around the country.

What once modestly started as a connecting point between the Virginia and Tennessee railroads has developed into a central crossroad of the country's interstate highway systems.

While many people in the region are known to joke that ''all roads lead to Bristol,'' the city is not only a commercial crossroad, it has also served as a gathering place for musicians from the Appalachian region. Many country music fans know Bristol because of the famous ''Bristol Sessions'' and recognize the city as the birthplace of country music.

Today when people think of NASCAR racing, they think about Bristol. In the early 1960s, it was two Bristol natives who decided to build a racetrack in northeast Tennessee. A little over 40 years later, racing has become America's fastest growing sport, and, indeed, the Bristol Motor Speedway is on the forefront of what is widely known as the ''World's Fastest Half Mile''—I reiterate that cutting edge, the entrepreneurial spirit one finds in Bristol.

In closing, I am pleased to congratulate the twin cities of Bristol for 150 years of cooperation and achievement. With this rich history and cultural heritage, Bristol represents the best of Tennessee and Virginia.

COMMENDING THE OREGON STATE UNIVERSITY BASEBALL TEAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 523, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 523) commending the Oregon State University baseball team for winning the 2006 College World Series.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 523) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 523

Whereas on June 26, 2006, the Oregon State University baseball team won the College World Series in Omaha, Nebraska by defeating the University of Georgia Bulldogs by a score of 5-3, the University of Miami Hurricanes by a score of 8-1, the Rice University Owls by scores of 5-0 and 2-0, and the University of North Carolina Tarheels in 2 championship series games by scores of 11-7 and 3-2;

Whereas the success of the season depended on the hard work, dedication, and performance of every player on the Oregon State University baseball team, including Erik Ammon, Darwin Barney, Bret Bochsler, Reed Brown, Dallas Buck, Brian Budrow, Mitch Canham, Bryn Card, Brett Casey, Cory Ellis, Derek Engelke, Josh Forgue, Cole Gillespie, Ryan Gipson, Tyler Grahm, Mark Grbavac, Kevin Gunderson, Koa Kahalehoe, Greg Keim, Jon Koller, Chris Kunda, Eddie Kunz, Joey Lakowske, Greg Laybourn, Lonnie Lechelt, Mike Lissman, Anton Maxwell, Jake McCormick, Shea McFeely, Jonah Nickerson, Joe Paterson, Casey Priseman, Sean Rockey, Bill Rowe, Scott Santschi, Alex Sogard, Dale Solomon, Michael Stutes, Rob Summers, Daniel Turpen, Geoff Wagner, and John Wallace;

Whereas numerous members of the Oregon State University baseball team were recognized for their performance in the regular season in the PAC-10 Conference, including Cole Gillespie, who was named PAC-10 Baseball Player of the Year, Chris Kunda, who was named PAC-10 Defensive Player of the Year, Darwin Barney, Dallas Buck, Cole Gillespie, Kevin Gunderson, and Jonah Nickerson who were named to the first team All PAC-10 baseball team, and Mitch Canham, Chris Kunda, and Shea McFeely who were named to the honorable mention All PAC-10 baseball team;

Whereas Head Coach Pat Casey was named PAC-10 Baseball Coach of the Year;

Whereas Jonah Nickerson was recognized as the Most Outstanding Player of the tournament; and

Whereas the College World Series victory of the Oregon State University ended a terrific season in which the team compiled a record of 50-16: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Oregon State University baseball team, Head Coach Pat Casey and his coaching staff, Athletic Director Bob DeCarolis, and President Edward John Ray for an outstanding championship season; and

(2) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to the President of Oregon State University.

JOHN MILTON BRYAN SIMPSON UNITED STATES COURTHOUSE ACT

CARROLL A. CAMPBELL, JR. FEDERAL COURTHOUSE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar No. 446 and Calendar No. 447.

The PRESIDING OFFICER. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (S. 801) to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the ''John Milton Bryan Simpson United States courthouse''.

A bill (S. 2650) to designate the Federal courthouse to be constructed in Greenville, South Carolina, as the ''Carroll A. Campbell, Jr., Federal courthouse''.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent the bills be read a third time, passed, the motion to reconsider be laid upon the table, en bloc, that any statements relating to the bills be printed in the RECORD, and the consideration of these items appear separately in the RECORD, without intervening action or debate.

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

The bills (S. 801) and (S. 2650) were ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, shall be known and designated as the ''John Milton Bryan Simpson United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''John Milton Bryan Simpson United States Courthouse''.

S. 2650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CARROLL A. CAMPBELL, JR. FEDERAL COURTHOUSE.

(a) DESIGNATION.—The Federal courthouse to be constructed in Greenville, South Carolina, building number SC0017ZZ, shall be known and designated as the ''Carroll A. Campbell, Jr. Federal Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal courthouse referred to in subsection (a) shall be deemed to be a reference to the Carroll A. Campbell, Jr. Federal Courthouse.

ORDERS FOR WEDNESDAY, JUNE 28, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, June 28. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 2 hours with the first hour under the control of the Democratic leader or his designee and the final hour under the control of the majority leader or his designee.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Finance Committee is expected to report the Oman Free Trade Agreement. That trade agreement is privileged, and we expect to turn to that as soon as it is made available. We hope we do not have to use all of the time allowed under the statute and, therefore, votes would occur tomorrow afternoon.

This week we also have an important Cabinet nomination to address. That nomination is Henry Paulson to be the Secretary of the Treasury, and we will turn to the nomination when it is made available for consideration.

VITIATION OF ACTION ON CONFERENCE REPORT TO ACCOMPANY H.R. 889

The PRESIDING OFFICER. The Chair vitiates the announcement made earlier today regarding the conference report to accompany H.R. 889, the Coast Guard reauthorization bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 8 p.m., adjourned until Wednesday, June 28, 2006, at 9:30 a.m.